

**APPENDIX**

**VOLUME II — Pages 306 - 620**

**IN THE  
Supreme Court of the United States  
OCTOBER TERM, 1978**

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**No. 77-1844**

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**CITY OF MOBILE, ALABAMA, *et al.*,**  
*Appellants,*

**v.**

**WILEY L. BOLDEN, *et al.*,**  
*Appellees.*

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**ON APPEAL FROM THE UNITED STATES  
COURT OF APPEALS FOR THE FIFTH CIRCUIT**

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**JURISDICTIONAL STATEMENT FILED JUNE 27, 1978  
PROBABLE JURISDICTION NOTED OCTOBER 2, 1978**

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(RECESS)

THE COURT:

All right. You may proceed.

MR. ARENDALL:

If your Honor please, during the noon recess, Mr. Doyle checked his secretary's calendar and it appears that the call from Mr. Clint Brown came in on April 8th, a Thursday, sometime between eleven-thirty in the morning and three-thirty-five in the afternoon, the exact time was not noted, because he accepted the call without his secretary making some notation that he had called at a certain time and it appears that the meeting with some of those who were concerned was held the next day, that is April 9th. So that it could properly be referred to as a Friday meeting rather than a Thursday meeting.

My understanding is that Mr. Blacksher's own notes, to the extent that he has them, indicate that that is correct.

THE COURT:

Fine. Thank you. Are you through with the witness?

MR. ARENDALL:

Yes, sir.

THE COURT:

Whom will you have next, please?

Q Now, Mr. Mims, in your 1965 race for the City Commission were there seven candidates including the then incumbent, Mr. Charles Trimmier?

A Mr. Trimmier was a candidate and I am sure that number is correct.

Q I will ask you whether or not, in that election you had a runoff between yourself and Henry Luscher, Jr., whose father had previously been a member of the Commission?

A This is correct.

Q In 1969, were you again opposed by Mr. Henry Luscher, Jr., as well as Charles F. Cooper and were you re-elected without a runoff?

A This is correct.

Q In 1973 were there six candidates, including Alphonso Smith and Lula Albert, who were black?

A This is correct.

Q Did you win in that race without a runoff?

A I did.

Q Mr. Mims, in that race did you seek black support?

A I have always sought black support.

Q Did you have any blacks active in your political campaign?

A Yes, I did.

Q Could you identify any blacks who gave you particu-

larly strong support?

A Well, there was Reverend Tunstall, and Mr. Evans and a number of other blacks who played a good part in my campaign for re-election.

Q Did you visit the non-partisan voters league?

A Not in the '73 campaign. When I ran in 1965, I was screened by the non-partisan voters league.

Q Did you go to the polls in 1969 and do you remember any of the activities of Mr. Beasley, at that time?

A Yes, I do.

Q Tell us about those.

A Well, it has been my policy, every since I have been involved in politics, on election date, to make as many polls as possible and, on that particular election day in 1969, Mr. Beasley was, if my memory serves me correctly, standing at the ward ten balloting place on Davis Avenue and it was my understanding that he was actually discouraging black people from coming to the polls and participating in the election process.

Q Mr. Mims, before we go into details with respect to your responsibility as public service commissioner, I would like for you to outline for the Court the basic set up for the supplying of various governmental services to Mobilians? First, Mobile Water and Sewer Board, what is that?

A Well, the Mobile Water and Sewer Board is an entity separate from the City Commission. The members of which are appointed to that board by the City Commission and this board has the responsibility of providing water and sewer service to the citizens of the City of Mobile.

Q Is it established by State law?

A This is correct.

Q Is Mr. Milton Jones a black, a member of that board?

A He is.

Q Does that board handle City drainage matters?

A Not storm drainage matters.

Q That is a function of the City government, itself?

A This is correct and, under the specific duties of the public works commission.

Q All right. Mobile County Health Department. Would you give us the relationship of that unit to the City government?

A Well, the Mobile County Board of Health has members who serve at the pleasure of the County Commission, if I am not mistaken. The City Commissioners do not appoint to this board.

However, by statute, by State law, each municipality within the County, as well as the County, has to contribute to the Board of Health and in the case of the City of Mobile

we contribute far more than the amount that is prescribed by law. I think we support the Board of Health at the tune of two dollars and forty cents per capita when the State law actually requires sixty cents, if I am not mistaken.

Q Mobile Housing Board?

A The Mobile Housing Board is also a separate entity and its function is to provide public housing for the City of Mobile and the members of that board are appointed by the Mobile City Commission or more specifically the mayor, who is serving, at that time.

Q Is that the agency that has been charged of public housing here and works with the Federal agencies in that regard?

A This is correct. They work for closely with HUD and the other Federal agencies and, in the past, had been designated as our urban renewal agency in the City.

Q Was Mr. John LeFlore a member of the board?

A He was for a number of years.

Q Is there currently, on the board, Mr. John F. Grey, who is black?

A He is black, yes.

Q And he is on that board?

A This is correct.

Q Mobile County Personnel Board?



A Well, the Mobile County Personnel Board is certainly separate from the City Commission. In fact, in many cases has more power, in my opinion, than the City Commission, because it tells us what to do.

It is a three member board and these board members are selected by a supervisory committee that is made up of one representative from each of the participating governmental entities.

Q That would be the City of Mobile has only one member on the supervisory committee?

A This is correct. And I think there are seventeen members of that committee, and it has been a contingency of the City government for a long time that there is a terrible inadequacy that exists here inasmuch as we are called on to pay fifty-five percent of the operating costs of this board, yet we only have one vote out of seventeen in selecting the board members and, of course, the board members then select a director and they operate the program and screen all applicants for job opportunities in the City as well as in all of these other governmental agencies.

Q When the City considers that it wants someone to -- or wants to fill a position on the City payroll, what procedure is followed?

A Well, if we want a secretary, for instance, a position

is opened for secretary or a position has been vacated, and we need to fill that vacancy, we notify the Personnel Board that we need to fill this vacancy. They, in turn, furnish us with a certified list of qualified people.

In other words, when we get the list from the Personnel Board we have the assurance that the names on that list have been examined and screened and they are qualified to do whatever it is that we need to have done and, in this case, we are talking about a secretary. So, we have five names on the list, say, and then we have the privilege of selecting from the top three and every vacancy within the City, with the exception of the City Attorney and one or two appointed positions, every one of them are handled just this way.

Q I understand they give you a list of five names, but you may only select from the top three?

A Well, I just used the number five, there could be ten on the list, we still can select only from the top three.

Q Out of curiosity, why do they give you more names than three, then?

A Well, these names move on up the list. Say there are ten names on the list for stenographic secretary, within the system and the City of Mobile this week needs a secretary and we take the one right off the top. Well, then, the number

two person moves up to number one and say maybe the County might need a secretary and they can select from that top three.

Q I see. Are there any other agencies that are actually not part of the City of Mobile's government that perform important function in providing public services that I have not asked you about?

A Well, we have recently set up the Mobile Transit Authority that handles the public transportation for the City and then we have an interim airport authority that assists the airport commissioners and the City Commissioners in the operation of the airport.

Q Both of those established under State law?

A Well, the transit authority is under State law and it is my understanding and we hope some day to have a permanent airport authority, however, at this time, it is kind of an acting authority, for lack of a better word. We have used interim airport authorities.

Q Does the City subsidize bus service in Mobile?

A We do to the tune of three hundred thousand dollars a year.

Q Would you give us any estimate as to the percentage of blacks and whites respectively who ride the buses?

A Well, I am sure I am correct in saying that the largest

percentage of riders would be blacks and it is my understanding that only four percent of the people of Mobile actually use the service in any one given day.

Q That is both black and white?

A Right.

Q Would it be fair to say that an overwhelming number of the actual riders are black?

A This is correct.

Q Now, let's go to City committees, Mr. Mims. I don't know whether you were present in Court or not, but the Plaintiffs have introduced as their Exhibit 64 a list supplied by us at their request of all the boards and committees and so on that are or have been around Mobile in recent years and I am just going to have to go down them one by one.

The board of adjustment, is that an agency required by State law?

A Yes, and it is one of the more active boards.

Q What does it do?

A It rules on variances. For instance, if the person wants to add on to his house and build a garage and it is going to go over near the line closer than the six foot that is allowed, then that person would come before this board of adjustment and get a variance.



Q Doesn't he first go to the City planning commission and then to the board of adjustment or does he?

A No. I don't think so. The planning commission is another planning function that I imagine we will get into later.

Q All right. Of the seven members of that board, is one of them black?

A Yes, he is.

THE COURT:

Just one minute. Please state for me the function of that board.

A Your Honor, the function of that board is to grant variances.

THE COURT:

Zoning laws?

A Well, we have a zoning commission, too, that acts on property of two acre plots and larger, but say you have a plot that was smaller than two acres and you wanted to get a special exception to put a special business or expand your house beyond the normal limits or something like this, you would come before this board of adjustment and ask for an exception and they hear all of these cases and either grant or deny your request.

THE COURT:

Mr. Blacksher and Mr. Arendall, for quick reference for study in the future, if there is no objection, I am going to make some pencil notations on the Exhibit, for instance, like board of adjustments set up by State law. Any objection to me doing that?

MR. ARENDALL:

No, sir.

MR. BLACKSHER:

No, sir.

THE COURT:

Let the record show that any notes on here will be made by me in pencil and if the attorneys have any objections when it is over with, I will hear from you. Go ahead.

MR. ARENDALL:

Mr. Mims, the board of adjustment would also handle, would it not, what are called applications for exceptions from zoning ordinances as, for example, when Jacinto port wanted to put the fragnation plant out there on the Jacinto port property. They had to go to the board of adjustment to get a so called exception from the zoning ordinance, did they not?

A I am sure this is correct.

Q The next on the list is the air conditioning board. Is that appointed by the City, itself?

A Yes. But there are some requirements that -- I don't have the ordinance in front of me. There are some specific regulations as to who goes on there. In other words, it has to be someone who is familiar with the air conditioning or refrigeration -- in other words, you don't pick someone who doesn't know anything about that.

Q What does this board do?

A Well, they screen the applicants for refrigeration and air conditioning licences, as I understand it.

Q Well, let me read something to you and ask you if this sounds approximately correct.

The qualifications for membership on this would be one, air conditioning refrigeration mechanic who is nominated by the Mobile Chapter of Refrigeration Service Engineers Society. One person whose principal business is registered air conditioning and heating firm nominated by the Mobile Mechanical Contractors Association. One who is nominated by Mobile Air Conditioning Contractors Association. One independent practicing mechanical engineer registered in the State of Alabama and one representative of the public.

Does that sound about right?

A It sounds like it is.

Q Now, the next one is the architectural .....

THE COURT:

Wait a minute. I didn't get the function of that board.

A That board, as I understand it, your Honor, screens applicants for air conditioning licenses and what not, anything to do with air conditioning and refrigeration. The purpose is to make sure we have qualified people to come to our places of business or your homes. In the event you call an air conditioning man you can be assured, if he is functioning in the City of Mobile, he is qualified to work on your air conditioning and not flim-flam you, so to speak.

MR. BLACKSHER:

Your Honor, I don't think that guarantees my air conditioning work, does it?

MR. ARENDALL:

The next on the list is architectural review board. Tell us what that does.

A Back to the architectural review board, the board would review the plans on any remodeling projects or any alterations to any building that might be in a historic district. The City of Mobile has several historic districts and you have to go before this board before you can make any alterations to a building in these districts and this is to assure that the district remains historic and all the buildings are compatible with the period, whichever period you may be

dealing with, and again these members are from specific organizations such as the historic development commission has a member. The preservation society and various other organizations make recommendations to us as City Commissioners and we appoint to this board.

Q The American Institute of Architects is also recommended to you by the Mobile Association of Architects?

A This is correct.

Q Next on the list is the auditorium board.

A Well, the auditorium board is an active board and it is set up to assist the Commissioner in charge of the operations of the auditorium as well as the City Commission in the operation of the auditorium that serves the entire community.

Q Of the twelve members are three black?

A I am sure that is right.

THE COURT:

That is what the Exhibit shows.

A It varies, from time to time. I think there have been more and there have been less.

MR. ARENDALL:

There has been some reference in this case to Mr. Gary Cooper who has testified. Was Mr. Cooper, at one time, a member of the auditorium board?

A Yes, he was. I appointed him.

Q How did he happen to get appointed?

A Well, Mr. Cooper walked into my office one day. I had never seen him before in my life.

He was tall, handsome, black man and introduced himself as Gary Cooper and I said, "I am glad to know you." We chatted for a few minutes. He said he had just returned from the military. He had been a major in the Marines or whatever branch of the service he was in and we had a nice long chat.

He expressed an interest in civic affairs and the next time an appointment came open on the board I appointed Mr. Cooper to the auditorium board which, I think, was his first civic appointment after returning from the military.

Q Mr. Mims, is it fair to say that on many of these boards and committees it is difficult for the City to get people willing to serve and if someone will show some interest in participation in civic affairs they likely can get appointed to most anything they want to?

A This is correct. We look for people we can appoint to boards and commissions. You just don't go out and, you know, reach in the sky and get a name of someone, you don't know a thing about or don't know anything about their performance or don't know that they even have a desire to serve.



We try to put people on these boards that have an interest in the particular area of responsibility and people who are willing to serve.

Q What is the Mobile beautification board?

THE COURT:

Does the City appoint all members of the auditorium board?

A Yes, your Honor.

THE COURT:

All right.

A If I might add, we try to divide these between the three commissioners. If there is twelve members on the board, then four would have been appointed by one commissioner and four by the other and so on. You ask about another board?

MR. ARENDALL:

The Mobile beautification board?

A Well, the Mobile beautification board was set up several years ago to do just what it says it does, try to beautify the City and make it more beautiful and engage the community in civic pride and clean up programs and things such as this.

Q Does it largely relate to shrubbery and things of that sort, or what?

A Well, it has had, as its projects on a number of occasions, the planting of shrubs along various boulevards

in different sections of the City, yes.

Q Mobile bicentennial.....

THE COURT:

I want to know who appoints these, each one of them?

A The City Commission.

THE COURT:

All right. Go ahead.

MR. ARENDALL:

Q Mobile bicentennial community committee. Who appoints it?

A The Mobile City Commission set up this committee for the special purpose of celebrating our bicentennial and they have been quite active during the past year and, at this point, they are phasing out and cease to be after this year.

Q Central City Development Authority. What is that?

A This is a fairly new organization that has been set up to try to rejuvenate the downtown area of the City as well as an area just west of the downtown corridor and it reaches out to the loop area and it is very active in trying to restore a lot of the area that could, on the other hand, deteriorate.

Q Mr. Mims, I notice from Exhibit 64 that at least, at the time that we gave that information to the Plaintiffs, that committee only had one member. Has it gotten any more

since then or do you know?

A Well, yes. There are several. In fact, one of the members, I think, just passed away. The president of Gayfers was on it, I know, and Mr. Van Antwerp is a member and Mr. -- the man with Title Insurance.

Q Goebil?

A Goebil is a member and I think the three City Commissioners serve on this authority, also.

Q And the downtown Mobile Unlimited, as a director?

A Yes. He is on it.

THE COURT:

All appointed by the City?

A Yes.

MR. ARENDALL:

Q This, basically, is suppose to have representation of people who have business interests in the central City?

A This is correct.

Q Board of examining engineers?

A Well, I don't have the Exhibit in front of me, but this is another one of those similar to the air conditioning board. There are specific requirements that go with these appointments. You have to have engineers and representatives of these various groups.

Q Membership is appointed by the City?

A Yes.

Q But it is with reference primarily for people getting licenses to engage in the business of practicing electricity here, doing electrical work, is that the purpose of it?

A Did you say electrical?

Q I am sorry. Engineers?

A This has to do with stationary engineers, I think.

THE COURT:

Stationary engineers?

MR. ARENDALL:

I see what it is. Would the qualifications for membership on this be a practicing engineer having not less than five years active experience in a management of stationary engines and boilers?

A Right.

Q I guess this is sort of a safety group, as far as whatever stationary engineers are?

A Let me give you an example. The jail, we have boilers, and we cannot operate those boilers unless a stationary engineer is on duty and that is to keep the thing from blowing up.

Q The next thing is the board of electrical examiners. Is that appointed by the City?

A Yes, it is.



Q My notes indicate that the qualifications here are appointed by the Mobile Electric and IBEW number five zero five, which is a union and by Alabama Power Company; is that right?

A This is correct.

Q What do they do?

A Well, they examine applicants for electrician licenses. In other words, we want to make sure that the people who have a license to do business in the City of Mobile are qualified and they have to go before this board and they are questioned by people who know something about electricity.

Q The next one on the list is Citizens Advisory Group for the mass transit technical study. Is that appointed by the City Commission?

A Yes, it is. That was in compliance with some State and Federal highway administration regulations and this group is not active any longer, as I understand it.

Q That has been taken over, its function, I suppose, have been taken over by this new transit authority that has been established?

A Well, not necessarily. This had to do with major arteries and these people represented the community and looked into the plans and did research and discussed the impact.

This artery -- I think we are talking about the Congress - Donald Street artery.

They talked about the impact it would have on the community and so forth and so on. To the best of my knowledge, it has served its purpose and is no longer active.

Q I am not sure, Mr. Mims, that I understand, because the next list on here, the next on this list is Citizens Advisory Committee, Donald - Congress - Lawrence Street and Three Mile Creek freeway, is that the same group as the mass transit study technical group, are they the same?

A No. I had the two confused. The one I had talked about, that had served its purpose. I am talking about the Congress, Donald group.

Q You had determined what the location of that freeway would be and that kind of thing?

A Right.

Q What about the other one, advisory group for the mass transit technical study?

A Well, that is some of our staff people, if my memory serves me correctly. I think Mr. Peavy serves on that committee and various technical staff people.

Q The Exhibit indicates there are eight members of whom three are black. Does that help refresh your memory on that?

A I couldn't tell you, to save my life, who they are.

So, you will have to pass on that one.. I am sorry.

Q The next one is the codes advisory committee. Is that appointed by the City Commission?

A Yes, it is.

Q Does that committee relate to drawing up codes, as far as building codes are concerned?

A This is correct.

Q Mr. Mims, I believe I am going to give you a copy of this Exhibit 64, if I may, so it might help you remember what each of these organizations are?

A Well, we often say we have fifty-seven varieties here on these boards. So, it is kind of confusing.

Q I will ask you if the qualifications for membership on the codes advisory committee; an architect, one structural engineer, a member of the American Society of Civil Engineers, one mechanical engineer, a member of the society of heating and refrigeration engineers, one electrical engineer, a member of the American Institute of Electrical Engineers and the engineer of the city of Mobile; one member of the Building Trades Council; one member of the Association of General Contractors; one member from the Mobile Home Builders Association; and one member from the Mobile Real Estate Association; and one member of the Mobile Air Conditioning

contractors. Does that sound about right to you?

A Yes, it does.

Q Now, actually, these building codes normally follow the so called southern building code, as worked up in municipalities all over the south and perhaps all over the country, do they not?

A This is correct.

Q The next on the list is the commission on progress. Is that appointed by the City Commission?

A Yes, it is.

Q What is it?

A The commission on progress is actually a bi-racial committee and that was the title or the name of the committee for many years, a bi-racial committee of the City of Mobile, and it was at my suggestion a number of years ago that we change the name to Commission on progress, because we were dealing with a lot of matters other than race oriented matters.

Originally it was set up to deal with the race problems in our community and, over the years, met a great need in the community.

Q Now, did it, for example, have anything to do with a Mobile restaurant downtown being integrated before they were elsewhere in the State?

A Yes, they were.

MR. BLACKSHER:

Your Honor, I object to counsel testifying.

MR. ARENDALL:

I think it was leading.

Q I will ask you, were there any informal discussions and arrangements made that did lead to the integration of downtown lunch counters?

A Yes.

Q At what point in time did that occur with reference to other cities in Alabama?

A Well, it was during the sixties when there were a lot of turmoil not only in this community but in many communities and this bi-racial committee as it was known at that time, worked long and hard to assure that black people would have free access to any place they desired to go, not only restaurants, but we had, one time, a man working to see that blacks were hired in the banks and in the savings and loan businesses and in the downtown businesses and we went to a great deal of effort to see that black people were put in these responsible places.

Q Those efforts have your personal support and assistance?

A Well, absolutely.

THE COURT:

Just a minute. Who appointed the code advisory, the City?

A Yes, sir.

THE COURT:

Commission on progress, the City?

A Yes.

MR. ARENDALL:

Q The next one is the educational building authority. Who appoints it?

A This is no doubt a City appointed board, because if I am not mistaken it is one of these propositions where this board is used as a vehicle whereby financing can be obtained for educational purposes. I am not sure if this is the University of South Alabama group or which group, but we have several, if my memory serves me correctly that we appoint three to five members to this authority and then bonds are sold and this educational facility retires those bonds.

Q You think this must be one of the industrial revenue agencies where they get approval of the city and get themselves incorporated and they sell tax exempt bonds in aid of a public welfare type of program?

A Yes.



Q Mobile area public higher education foundation?

A This would be the same type of entity set up strictly for -- as a vehicle where these funds can be obtained in the facility built for public use.

Q Find Arts Museum of the South at Mobile. Membership there appointed by the City Commission?

A Yes. And normally we appoint people who are interested in fine arts, people who express interest in the museum and in some cases, people who have made sizeable contributions to art in the museum in Mobile.

Q This is the committee that is in charge of running what we use to call the art gallery in municipal park; isn't that correct?

A This is correct.

Q Are the nominees for it submitted by the Mobile Art Association, the allied arts council, the art patrons league, the art gallery board and the Mobile County Commission and the City Commission?

A This is correct.

Q Fort Conde Plaza development authority. Is it appointed by the city?

A Yes, it is, and this is an unusual arrangement. The three City Commissioners serve on this authority as well as four other people who represent the interests within that

plaza. In other words, some of the owners of property or representatives of owners of property and, in one case, Mrs. Bester Ward represents the Fort Conde Charlotte House, which is a historic museum within that complex. The purpose of this authority is to promote that plaza area.

Q And to get private industry and businesses to develop things that would be consistent with the historical area?

THE COURT:

This Exhibit only reflects four members. I assume then that you left off the City Commissioners that had membership?

A Apparently, your Honor.

THE COURT:

All right.

MR. ARENDALL:

Q Mobile Historical Development Committee. Is that appointed by the City?

A Yes, it is. We have certain stipulations as to who goes on there. In other words, various groups make recommendations, normally people interested in historic development.

Q Let me read some names to you and see if this sounds about right. The Allied Arts Council, the American

Association of University of Women, American Institute of Architects, Art Patrons League, Colonial Danes, Three City Commissioners, County Board of Realtors, Mobile Jaycees, Women's Architectural League, downtown Mobile Unlimited, Fort Conde Charlotte House, Colonial Danes, Historical Mobile Preservation Society, Historic Mobile Tours, Inc., Jaycettes, Junior League, Chamber of Commerce, County Board of Commissioners, Oakleigh Garden Society and Richard's DAR House, does that sound about right?

A Yes.

Q Independence Day celebration committee?

A Well, this is a committee that has been appointed by the City Commission that started back in 1972 when we decided we need to have an Independence celebration every year. This committee puts on the 4th of July celebration held at Ladd Stadium.

Q How many people did you have this year?

A We had thirty-five thousand people.

THE COURT:

How many does that Ladd Stadium hold?

A About forty-six thousand, something like that.

MR. ARENDALL:

The next one is the Industrial Development board. Is this another one of these financing arrangements?

A Yes, it is.

Q The next is the Malaga Day Committee, is that .....

THE COURT:

If you don't mention who appoints them, I assume the City appoints them.

MR. ARENDALL:

Yes, sir.

Q Mr. Mims, unless the City does not appoint them, let us know, otherwise I won't even ask you the question. We will just assume the City appoints them.

A On this Malaga Day Committee, I am not sure that is even still in existence. It could be or could not be.

We have a sister city's program and Malaga, Spain is one of our sister cities and we have had some celebrations here called Malaga Day celebrations and I am not even sure that committee is still funding.

Q If members were a group who went to Malaga in 1965 and got the sister city thing going.....

A They have been the prime movers of this Malaga Day program.

Q The Mobile Housing Board. Now, that is a highly significant group, is it not?

A The Mobile Housing Board is one of the most important boards that we have and simply because it provides public



housing and meets the need of so many people in the community. This is one of our most important boards.

Q And I asked you about that, of course, in my earlier examination?

A Yes.

Q Next is the Mobile Medical Clinic Board - psychiatric. Is this another one of these internal revenue bond organizations?

A It is a vehicle for financing.

Q Yes. And the Mobile Medical Clinic Board, Tranquil Aire, that was a vehicle for financing the building where Tranquil Aire is located?

A Yes.

Q The Port City Medical Clinic Board. That is another such organization, is it not?

A That is correct.

Q The next is Mobile Medical Clinic Board, Springhill.

A Yes. This is correct. If I might add here, your Honor, the City Commission has very little, if anything, to do with these boards once we make these appointments.

In other words, we have recommendations made to us and we try to put responsible people on these boards and once the financing is arranged then really there is nothing more for us to do. So, we have a lot of -- it looks like

a lot of boards here, but some of them we don't have much to do with.

Q Mr. Mims, I will ask you if this isn't a typical way, three doctors decide they want to start a hospital and they want to arrange financing through tax exempt bonds and they come to the City Commission and say that three of us are getting ready to build another hospital at such and such a place and we need one of these industrial revenue boards created. Would you appoint the three of us or maybe they say our accountants or our lawyers, some people to go in that they designate and y'all do what they ask you to do?

A This is the way that works.

Q The Medical Clinic Board of the City of Mobile. The Medical Clinic Board, - second, that is the same kind of thing?

A Right.

Q The Mobile Medical Clinic Board, the same kind of thing?

A Right.

Q Now, we come to the Mobile Library Board. Is that appointed by the City?

A Yes, it is, and it is with the Commissioner in charge of the operation of the libraries.

Q How much money does the City contribute to the

libraries here, do you know?

A Several hundreds of thousands of dollars. I don't have that figure in front of me, seven or eight hundred thousand dollars a year.

Q Greater Mobile Mental Health Retardation Board. That is another one of those industrial development bond boards, is it not?

A Well, not necessarily. I think this is a requirement of the Federal government that we set up such a board and these Federal funds are channeled down through this board and then allocated to Mental Health and other things.

Q Does the City Commission appoint the members?

A Yes.

Q Is this the group that works in conjunction with the rotary clinic or elsewhere? What agency.....

A Well, they work with the Mobile Mental Health Center, I know that, and I suppose any other organization that was in this business of helping the handicapped and they would go to this board and clear any application or what-not that they might have as far as federal funds are concerned, kind of a screening board, as I understand it, to try to bring it in altogether to keep things from going in every direction. If I am not mistaken, this is a fairly new arrangement here.

Q Pier and Marina committee?

A Well, at one time, we had wanted to build a public marina over here just this side of the battleship and we had high hopes of it becoming a reality until we ran smack into the EPA people and they put such a damper on us, you might say, that the committee has already served its purpose and we didn't accomplish anything.

Q The Mobile Planning Commission?

A The Mobile Planning Commission is an important commission, because it has to do with zoning and the planning of the City and many of the improvements that are being made today in the City of Mobile are end results of planning that took place ten years ago.

Q All right. Policemen and fire fighters pension and relief fund board?

A Well, this board, as I understand it, administers the funds and tries to get as much return on the money as they can so that they can meet the obligations of the fund.

Q Is this created under State act?

A I am not sure about that. I really am not. I know some of the people who serve on it, but I am not sure.

Q I will ask you if this sounds right to you that the fire chief is designated in an act creating the board and that the police chief is designated and that there are three bankers on it and one man owning his business and one who has his

own investment business, the basic purpose of this is to see to the proper investment of the funds that are ultimately to be paid out for pensions and relief for policemen and fire fighters?

A This is correct.

Q Next is the Mobile Tree Commission?

A Well, this is an important commission. If you want to get a tree cut, because you had better not cut one unless you go through them. We usually try to put people on this committee or commission that is interested in preservation of trees and I think it is a good committee and they work awfully hard to preserve the beauty of our City, namely our trees.

Q Next is the Neighborhood Improvement Council?

A Neighborhood Improvement Council, no doubt has done as much or more than any other group to improve our neighborhoods. They go into the neighborhoods and have meetings, encourage the property owners to upgrade their property, to clean up, fix up, paint up, and it is quite an active group.

Q Mr. Mims, there has been some testimony here from residents of various areas of the City with reference to what they feel are inadequacies in City services in their own areas?

A Yes.

Q Is this an agency that relates itself to that problem

or not?

A Well, the neighborhood improvement council has community meetings and they run articles in the medium and in the newspapers. Usually they will have the community that they are having the meeting in, the blow up of the map -- say it is going to be the Dog River area where I live or the South Brookley area, they would have a map of that area and they would they are going to have a neighborhood improvement meeting in that area and every citizen in that area is encouraged to come and express themselves, at that particular meeting, and they go into things like the code, what you need to do to bring your house up to standard, up to the code, and help people know how to improve their dwellings and their living conditions, and much has been done in these communities because of the neighborhood improvement council.

Now, they also, for instance, say they go into a community and citizens complain about the lack of street lights. Then Mr. Locke, who is the secretary of this improvement council, he would come back and write me a memo as public works commissioner in charge of the street lights, and say last night we met in Cottage Hill, or wherever it might be, and we found, in a certain area, the street lighting, in our opinion, is not up to the City policy or



the City standard. Then I would direct the electrical superintendent to go and make a survey of this area, come back then and give me his recommendation and if the area was not lighted in accordance with our policy then we would, as rapidly as we could, light the area in accordance with the City's policy.

Q What is the City's policy?

A On street lights?

Q Yes.

A We have a light on every corner and every two hundred and fifty feet down the street or mid-block, or at the end of dead ends, which is adequate lighting, and we received an award last year as being one of the best lighted cities in the United States.

Q Mr. Mims, I have references here to three different organizations, the names of which appear to me to be somewhat similar.

We have been talking about the Neighborhood Improvement Council that is headed by Mr. Joe Locke. There is a community service group, is there not?

A Well, no.. There may be a service community group, but you may have that confused with a program that I instituted a number of years ago that I call community service meetings.

Q What is that?

A Well, this is a program whereby I go into the neighborhoods with members of my staff, primarily, and on occasion we take someone representing the police and fire department and the parks department and other departments, but primarily people from public works and we go into the communities and have a meeting at a school or parks building or community building, somewhere centrally located as we could in the community and invite the public to these meetings and try to get input from the public and then go back and try to respond as rapidly as we can to the requests of the people.

Q What is the difference between the neighborhood improvement council and your community service meetings or do they just overlap?

A Well, they could overlap, but the neighborhood improvement meetings are -- they deal primarily with the upgrading of the homes, of the residences in a given area where the community service meetings deal mostly with the needs from a public works standpoint.

In other words, the drainage problems, the lighting problems, the street problems, sanitation services and things like this. What I was trying to do when I initiated this program several years ago was to get input from the people,

because it has been my sincere desire all along to meet the need of this community regardless of who they are or where they live. The only way to know the needs is to get out in the community and hear from the people.

The television people and more specifically, WKRG, for a period of a year or two, went to everyone of these meetings and taped these meetings and played a portion of the meetings back at a later date and they were not only viewed, -- the programs were viewed by the whole community. In other words, if we met in Toulminville, for instance, then the next Sunday or whatever, the whole area could see that we had had a meeting. And I might say, speaking of the Toulminville meeting, if I might, we have a swimming pool at Gorgas Park today and it is solely because of the idea that was brought up at one of these community service organization meetings and I came back to the City Commission with the idea and the City Commission approved it and, today, the kids are out there swimming this afternoon because of that.

Q Do you have these meetings, then, in the black areas as well as in the white?

A Yes. It has been my policy to have them in every area of the City. In fact, we took the old ward map and tried to put about three wards together and have a meeting in an area that would cover about three wards and then the

ward map was changed and so we quit using the old ward map and now we just go to different areas.

Last week I made Trinity Episcopal Church in an area called the Chapman Improvement area. Three or four weeks ago I met with a group out in the Carver Court area.

Q That is a black area?

A Which was a predominantly black area and then, a few weeks prior to that, we met with another group -- I will have to get my records to tell you where I have been over the last months, but we have periodic meetings out in the community with the people and, in addition to that, I make it a point to ride in these communities myself to know what is going on.

Q As long as I am asking you about things with somewhat similar names, what is the community development program?

A Well, the community development program of the City of Mobile is certainly not to be confused with another organization known as the community development project. We are talking about now the City of Mobile's community development program.

This is a program set up and we have a committee called the community development committee to make improvements in the communities throughout Mobile, taking advantage



of Federal funds.

Now, these Federal Funds, at one time, were designated. You would get so many millions of dollars for this and so many for that. Congress changed all of that and now they send the money down in a block, one lump sum, and then we, as public local officials, have to make a decision on where these monies are to be spent.

Now, in order for us to set priorities as three elected commissioners, we have established this community development committee that holds meetings in the various neighborhoods and we have set some priorities on these funds. So, this is what the community development program is.

Q That is the program that is headed by Mr. Barnett, is it not?

A He is one of the members of the committee. I think Jimmy Alexander may be is the chairman.

Q The Housing Board man?

A Yes.

What we did, if I might add, we put the planner, Mitch Barnett, the public works director, the Housing Authority Executive Director, the finance director, as well as the building inspection department head on this committee.

We felt like we had a cross section of the people who were going to actually get the work done once we initiated it. These people are going to be held to be responsible for carrying out these projects.

I am sure you have the map showing where all of these projects are and where this money is going to be spent and I am sure that will be introduced later on during this trial.

Q All right. I think I left out here and let's go back to it.

I believe we are now on the plumbers examining board.

THE COURT:

Just a minute. Let me ask him a question.

With reference to this neighborhood improvement council, I understand there is some ordinance or regulation or something in a city with reference to requiring people -- with reference to their homes to keep them in a certain state of repair and painted; is that correct?

A This is correct.

THE COURT:

Now, if that is correct, then the question I want to ask you is this neighborhood improvement council related to those matters?

A Yes, it does, your Honor.

MR. ARENDALL:

The plumbers examining board. I will ask you if these qualifications sound about right. The chief plumbing inspector, one master plumber, a member of the mechanical contractor's association, one master plumber, a member of the master plumber's association, one journeyman plumber and one representative of the public?

A This sounds correct.

Q And this is with reference to the licensing of plumbers?

A This is right.

Q The recreation advisory board. I see from Exhibit 64 that members of that board's term expired in 1974 and they were not re-appointed. What was the purpose of that board and what was the thinking about not re-appointing it?

A If my memory serves me correctly, the Commissioner in charge of recreation, at that time, proposed this advisory board and if I am not mistaken, he recommended these names to the City Commission and we appointed them and they were to help him with his recreation program. Now, I did not come in contact with these people.

Q So, you think I had better ask Mr. Greenough about that?

A I think you had better asked Mr. Bailey about that.

Q Mr. Bailey was the one?

A Yes, sir.

Q The South Alabama regional planning commission?

A The South Alabama regional planning commission is what it says it is. It is a regional planning commission. It is a three county operation and local officials, as well as appointed officials, serve on the regional planning commission and every application for Federal funding comes through this regional planning commission.

Now, what we have done, as far as the City of Mobile's government is concerned, we have appointed members of our regular City planning commission to this commission and, of course, you see the number there.

It says one black and six total members, but there are many blacks who serve on the South Alabama regional planning commission from the other cities and from the other counties that are represented on this commission.

THE COURT:

Total members of Mobile, though, is six; is that right?

A This is correct, your Honor.

MR. ARENDALL:

I believe I have already asked you about the board

of water and sewer commissioners.

Now, the employees insurance advisory board.

A This board was set up to help the City Commissioners select the right kind of insurance program for our employees. We selected persons from the various departments to serve on this board and to screen all insurance programs before these programs are presented to the City Commission for approval.

For instance, if xyz company were to come to my office this afternoon and say, look, we have a fantastic plan and it is going to cost three dollars a month and blah blah blah, and we want to put it on payroll deduction and we would send this xyz company before this board and let this board screen them and then if the board, representing all of the employees, thought that this was a fantastic deal and they wanted it and they would bring it to the City Commission and say we think this is great and we know these people can get more than the amount required. We have to have three hundred before we put anything on payroll deductions. And we say, okay. The committee approved it. You go out and get your three hundred and don't come back until you have your three hundred, because we are not going to put it on payroll deduction.

THE COURT:

I lost out on the board of water and sewer commissioners.

MR. ARENDALL:

I guess we can come back to that, Judge. This is the organization established under state law, which runs sanitary sewer and water for the city and, indeed, some outlying areas, doesn't it?

A This is correct. I might add, in addition to the housing board, this is, without a doubt, one of the most important boards that we have, because every family in the City of Mobile is affected by this board and we could have one black gentleman on this board.

THE COURT:

Although it is established by state law, does the City make the appointments?

A Yes, sir. We make the appointments.

THE COURT:

All right.

MR. ARENDALL:

This is the board that Mr. Von Sprecken is chief career man on; isn't it?

A That's right. He is the superintendent of the water and sewer board.



MR. ARENDALL:

We expect to have him here, Judge.

All right. The next one is Mobile County Hospital Board and I have some notation on my copy of this Exhibit -- I am not sure it is on the original. It looks like your typing and it says "Owned by University of South Alabama. City has no connection".

A I am not sure that this board even functions any longer. You know, we turned the hospital over to the university and they operate it. We have no connection with it any longer.

Q I see. Frank S. Keeler Memorial Hospital?

A I think they are out of business, also.

Q The Arts Hall of Fame committee. Do you know what that is?

A Well, it looks like one member and I am not sure who that is unless it is the recreation commissioner.

Q See if this sounds like a 1971 state act under which persons are to be elected to the State Arts Hall of Fame and must have background in arts and the City Commissioner has appointed a representative of the Mobile Art Gallery Board; does that sound about right?

A It sounds about right to me.

Q The next is Public Education Building authority. Is

that another one of these industrial revenue bonds?

A Yes. It is strictly a financing thing.

Q And the educational board?

A The educational board, no doubt here, is the group of employees that we have that screens the applicants for furthering their education. In other words, we try to co-operate with our employees as much as we can so that they might further their education.

In fact, the City Commission pays a portion of employees tuition, say, at the University and, say, patrolman Jones wanted to go to school at night and take up criminal law, or whatever, and he would make his application to the City Commission through this educational board and the board then would screen this applicant and make sure he is sincere in what he is trying to do and we have requirements that you have to stay with the City "x" number of years. I think it is three years after you get your degree or after you use this money or else you have to refund the money, but these boards screen these employees.

Q Members of that board are largely employees of the City, members of the public, or what type of persons?

A As I recall it, they are employees, department heads, and maybe someone from the personnel board on here.

Q Now, Mr. Mims, there has been a lot of testimony in

here about surface drainage in Mobile.

THE COURT:

Why don't we take a break right here. Take about a fifteen minute break.

(RECESS)

THE COURT:

All right. You may proceed.

MR. ARENDALL:

If your Honor please, I would like to apologize to the Court on an error in judgement that I made. Mr. Mims had told me that at four-thirty that he had to leave here in order to get to Santa Rosa Island to speak to some three or four hundred people. I told him that I thought we could have completed the examination and cross-examination. I have taken so long with my direct today that I doubt if we make it.

THE COURT:

Just go ahead and let him finish up tomorrow.

MR. ARENDALL:

Thank you, Judge.

Mr. Mims, your department has charge of Mobile drainage problems?

A That is correct.

Q Tell us generally about them and what you have done and indicate whether or not you have sought to treat fairly

the various black areas.

A Well, under the supervision of the public works commissioner, comes the general heading of drainage and, of course, the City of Mobile has been plagued with severe drainage problems for not only decades, but I would assume centuries. The ground or the topography here, the City is built on the river, as you know, and it all started right here near the river and moved westward.

It is very low lying areas and we had tremendous problems in the old part of Mobile with drainage. We have tremendous problems in the new part of Mobile with erosion and the sand washes down off of the hills into the low lying areas and clogs up the drainage systems in the old sections of the city.

So, for centuries we have had drainage problems. There has been a lot of talk about drainage for a number of years, but there was not an awfully lot done about it until recently.

When I first ran for office in 1965 and my advertising material and my brochures will substantiate this, that one of my main concerns was drainage and alleviating the problems that existed. So, the first thing I did was to try to establish some kind of systematic maintenance program and we gave

instructions to the public works superintendent and to all drainage personnel that these drainage easements were to be maintained on a periodic basis. We bought some of the finest equipment that can be bought to clean catch basins and to clean storm drains. Some of the most modern equipment to clean ditches like Three Mile Creek and One Mile Creek and Bolton's Branch and Saltwater Branch and the various others -- what we call unimproved drainage easements and it has been our policy, over the last ten years, to maintain these easements on a regular basis and testimony here during this trial has indicated that the city has cleaned these drainage easements on a periodic basis.

In addition to the maintenance program, the cleaning of these drainage easements, we have entered into what we call the master drainage program of the City of Mobile. For a number of years we tried to get into this and finally came to the conclusion that we were not going to ever get this drainage corrected until we just, you might say, go into it headlong and try to find the money and sell bonds and get the revenue or the bonds to do the projects.

So, in 1972 the City Commission met and agreed to the master drainage program. We have sold bonds, millions of dollars worth of bonds, to be paid over to the next number of years and we are making many improvements in areas of both

white and black where problems have existed for over a hundred years, in some cases.

I have gone into these communities and talked to our citizens, both black and white, about the problems and with the resources available, I think the City of Mobile has come a long way in improving the drainage in our city. Our master drainage program, as far as I am concerned, has been initiated and promoted without regard to race, whatsoever.

Q Let's see, what is the total estimated cost of that program?

A Well, we started out with about twenty million, but I imagine, by 1980, we will have spent thirty million dollars.

THE COURT:

What do you mean you started out?

A Well, that was our projected program, but inflation and other things have caused prices to go up and we had added to the project and .....

MR. ARENDALL:

Do you have outside engineering consultants to advise you with reference to that, or is this done by city personnel?

A Well, when we went into this program we assigned three engineering companies to this master drainage program and these engineers have certain water sheds assigned to them. We have three water sheds in Mobile; the Three Mile Creek water shed,



The Dog River - Eslava Creek water shed, and the Mobile River water shed. Every drop of water that falls into Mobile, goes into one of these three water sheds.

Each one of these engineering firms, Polyengineering, David Volkhert and J. B. Conversing Company, have one of these water sheds assigned to them and they are doing the designing of the storm water system in these areas. We have made a great deal of progress. There is not an area in the City but what you can't see some of the progress that has been brought about because of this drainage program and, in the years between now and 1980, the program that can be presented here shows our projected projects.

Q Has some work been done in each of the three water shed areas?

A Yes. This is true.

Q Approximately how much money have you spent so far on actual out of pocket expenditures, to date? Could you give us that figure?

A I can't recall, but it would be more than ten million dollars has been spent already on the master drainage program.

Q Do the engineers tell you that once it is completed that Mobile will then be adequately drained?

A Well, I don't think you would ever find an engineer or politician, either, that was in his right mind that would

say you would always be protected from a storm or flooding situation. Normal flooding conditions will be eased tremendously when this entire program has been completed, but if you have what they call a hundred year flood come, you know, the whole area could get under water. We can't protect the area completely from God's floods, you know.

Q You mentioned some white areas that have had this problems and I would like for you to mention some of those specific locations, if you will, please.

A Well, there is one project that we have under way right now that has -- where there is a need and the need has been there for a hundred years, I am sure. I know it has been there for over fifty years, because I know people who were born there fifty years or more ago.

Q Where is that?

A This is in the Laurel - Devitt - Monterey Street area and I might add that we had a community meeting there with some people, including Mr. Brown, whose name has been mentioned here and other testimony and I think he would have to admit that he got mighty good response out of the City government in this project. We're spending over a million dollars in the Monterey - Laurel - Devitt Street area. This need has been there, as I said, for low many years.

THE COURT:

I am familiar with Monterey Street, which is between Springhill Avenue and Government Boulevard. Is that the Monterey area you are talking about?

A Yes, your Honor.

THE COURT:

Does it go also south of Government Street?

A Monterey does.

MR. BLACKSHER:

Yes, sir. One block.

THE COURT:

The area you are speaking of is north of Government?

A Yes, sir.

THE COURT:

All right.

MR. ARENDALL:

Now, let's talk about drainage and some of these other areas that there has been some testimony about. There has been some talk here about Trinity Gardens, that area came into the City only in 1961, did it not?

A I believe that is when the vote was taken by the people in that area. It was in 1965, I believe, that services were provided and the people began to pay taxes.

Q Just in a general way, would you tell us what the basic problem is there, as you understand it, with reference to

drainage?

A Well, I will be happy to, because I have been in the Trinity Gardens area many times and must confess that the problem there is an unusual problem and it is mainly because the area lies between some railroads and down in kind of a low land or flat land that has been described here, in testimony, that was like a saucer, which is a good way to describe it, because it is going to take an awful lot of drainage to get the water out of the area and we have been working on it over the years and, with our community development program that we mentioned here earlier, we should be able to drain this area and then we can move on into the paving of the streets.

Q When it gets drained, where does the water go? On what water shed is it located?

A This goes into the Three Mile Creek water shed.

Q Isn't that going to compound your problems on Three Mile Creek that you heard testimony here about, the Crichton problem? Wouldn't that compound your problem?

A Any time you put more water into a stream, I guess you compound your problems. However, we have worked extremely hard to get Three Mile Creek cleaned out on the end near the river and we have spent thousands upon thousands of dollars dredging Three Mile Creek and we feel that, with



these improvements, as well as the study that is being made now by the Corp of Engineers and, incidentally, this bill was just passed whereby a hundred and fifty thousand dollars in planning money for the Corp of Engineers was set aside.

The Corp of Engineers fit into this Three Mile Creek, because Three Mile Creek runs into Mobile River and Mobile River is part of the Tennessee, Tom Bigby program. Anyway, we have a hundred and fifty thousand dollars planning money and the Corp of Engineers is going to help us with the drainage on Three Mile Creek.

Q There has been some talk, also, about drainage problems in the Plateau area.

On what water shed is that?

THE COURT:

Where does Three Mile Creek run into Mobile River?

A Well, it crosses Telegraph road north of here where the little bridge is where you see some little tugboats sitting there, right north of the State Docks, to be more specific.

THE COURT:

All right.

MR. ARENDALL:

Going back to Trinity Gardens for just a moment.

I understood you to say as soon as you could get your

drainage worked out there, then you would go in with street paving; is that right?

A This is correct and, if I might say this, one of my concerns naturally has been the streets of Mobile and the only unimproved streets we have left within the city, you might say, are located in the Trinity Gardens area. We have paved dozens of miles of streets in the last ten years in Mobile and we have a few left in Trinity Gardens.

It is absolutely impossible for us to pave these streets until we drain the area. We have paved some streets in Trinity Gardens, the ones we felt like we could pave and, you know, get by with, so to speak. Because it is absolutely money thrown away to go out and put asphalt in an area that you can't dry out and the streets will stay torn up all the time and fail and you will have a problem, sure enough problem, on your hands.

So, we have just about paved every street in the City of Mobile with the exception of those right there in Trinity Gardens which we hope to get as soon as we get the area drained as with these community development funds.

Q Now, there has been some talk about Plateau.

On what water shed is it, or does it have a drainage problem?

A Not what you would call a general drainage problem



like Trinity Gardens. I doubt if you could point to any community in the City and say it is completely free of all drainage problems.

But Plateau does not have the general problem as does Trinity Gardens.

Q There was some talk here about dead bodies getting washed away. Would you tell us about that, if you know anything about it?

A I think that was an exaggeration. It was called to my attention a year or so ago that there was a problem with a cemetery. We did some work around this cemetery and some of my staff people can elaborate on that more than I and get into detail on it, but we did do some work around the cemetery. I understand that this area was being used as a burying place down off the side of a hill and on down into what you might call a slew or spillway or drainage easement and I am sure that in case of a flash flood or something of this sort, the whole area was covered with water and it is very likely that some of the grave sites were covered with water, because the people are buried right on down into the low land.

I don't know where the health department has been, or whoever is supposed to regulate the cemeteries, but whoever is supposed to inspect cemeteries and regulate them, apparently were not stopping the burying of people down in these low

places.

I think you could safely say, in some places, when a flash flood came that the water, perhaps, covered the graves. As far as bodies floating around, I think that is an exaggeration.

Q There has also been some complaint about the drainage in the Crichton - Liberty Park area?

A Yes. There is a tremendous problem in that area. To my knowledge, it doesn't present any flooding problem, but there is a big ditch that comes down through Crichton that originates up about Pages Lane or back of Delchamps Shopping Center there and goes down by Nall Street and across Bayshore and Mobile Streets and on into Three Mile Creek. It is a huge drainage easement. The people in the area continuously are filling it with old tires and litter and furniture and the maintenance problem is tremendous.

Some homes have been built right up on the edge of the creek. We are aware of some of these problems, but we are also aware of the fact that it is going to cost several millions of dollars to correct this problem. It is in our master drainage program and it will be taken care of, but, as I say again, with the resources that we had available, I think we have done a fantastic job with our drainage program.

Q Mr. Mims, earlier in the trial I introduced, as Exhibit

80, a news release that you had issued on March 16, 1970.

Would you hand him a copy of that, please?

I believe his Honor inquired as to whether this million one hundred and forty-one thousand three hundred and seventy-four dollars that is stated on the second page to have been the total expenditures between October, 1965 and March 16, 1970, was all spent in an effort to do something about the problems in Trinity Gardens?

A This is correct.

Q And is it fair to say, too, that during that period of time Trinity Gardens had produced only twenty-seven thousand dollars in property taxes for the City?

A I had our revenue people develop these figures and I am sure they can be substantiated.

THE COURT:

Mr. Arendall, are you suggesting that when an area of the city doesn't produce certain revenue, they are not entitled to certain services?

MR. ARENDALL:

No, sir. I am not. What I wanted to do was to ask him this next.

Mr. Mims, does not this demonstrate that the policy of the City of Mobile, with reference to the expenditure of public funds has been dictated by a desire to help a particu-

lar area that needs them as distinguished from just giving me back fifty dollars a year in services if I pay the City fifty dollars in taxes?

A Well, I can say emphatically that we have tried to provide these services in the Trinity Gardens area, because the area became taxable right after I was elected to office in 1965 and I began, as public works commissioner, to provide these services in the Trinity Gardens area. Prior to that time, they didn't have any service at all.

THE COURT:

I take it that your contention that the City provides services according to needs rather than according to revenue?

A Yes, sir. If I might add we can't always do everything everybody wants done in any given community.

MR. ARENDALL:

Now, I notice on the second page here, there is a reference to sewer installation and water installation and a note that two hundred and fifty-eight thousand dollars of federal funds had been secured and a further note that a portion will be returned over a ten year period in assessments.

Taking, first, the item of sewer installations, I had understood from your prior testimony that the Board of Water and Sewer commissioners were in charge of the sanitary

sewer development for the city in this area.

Would you explain how it came about that the City itself was in the picture here?

A Well, the water and sewer board was established, to begin with, in order that that entity might sell bonds and provide these services for the people. Over a period of years the board of water and sewer commissioners apparently reached their debt limit and they could not sell any more bonds. Then the citizens of Mobile, these in particular, Trinity Gardens, as well as thousands of others, came to the board of City Commissioners, at that time, and said, look, we want these services. We are in the city and we want these services. These people in Trinity Gardens came into the City and began to pay taxes in '65 and said we want these services and we go to the water and sewer board and say, look, you are suppose to provide these services and they say we can't provide the service because we are at our limits, as far as debt is concerned.

The City Commission turned around then and sold bonds and made these improvements and assessed part of the cost against the property owners and this is the only way these improvements could have been put in, at that time. I think it was a case of a city government responding to the needs of the people.

Q That would be true of the money as indicated here for water installation, I take it?

A Yes. They were both installed at the same time.

Q Now, you have mentioned briefly, among your duties as public works commissioner, is that of paving and you have spoken about that generally. Let me ask you a few general questions.

Where a subdivider desires to take a rather large piece of property and turn it into a lot sales venture, who puts in the streets?

A The developer.

Q Does he have to do that in accordance with City specifications as to the nature of the street and the underground drainage and things of that sort?

A Yes, he does, and then he turns them over to the City when he has completed the project.

Q Once they are inspected and approved by the City, they then become City streets, but it is the developer who puts them in; is that correct?

A This is correct.

Q Would it be fair to say that since the basic growth of the city has largely been to the western section of the City that many of the streets in that area have been paved by private individuals as distinguished by the City?



A Well, this is absolutely correct.

Q Then in those areas, however, where there have been no real estate developments in recent years the City, itself, has been the one to do the paving; is that right?

A On all unimproved streets where there were residences the City has gone in on an assessment basis and improved the streets and, as I said a moment ago, we have just about taken care of every one with the exception of some in Trinity Gardens.

Q Now, there was a lady here earlier in the case who -- no, a gentleman, Mr. Pettaway, who was talking about Lincoln Street.

I understood him to say that the people out there had always been willing to pay for an assessment for street improvements and then I introduced Exhibit 81 on that subject. Do you recall the Lincoln Street situation?

A I recall Lincoln Street quite well, because I set on a Reverend Mr. Smith's porch in 1965 and discussed the problem with him. I discussed it a number of times after that date with him.

It was not until about a year ago -- I don't recall the dates, that we first learned that these people were willing to pay an assessment. Prior to that time they wanted the City to put the streets in because they had problems and,

to the best of my recollection, they never indicated that they wanted to pay or would be willing to pay any portion of it. My position was that it was a hard surface paved street at the time and we had much greater needs in other areas and our responsibility is an awesome responsibility, when you try to establish priorities, and, in my opinion, the Lincoln Street project was not a high priority item, but when the people decided that they wanted to have a part in it and pay the assessment, then the City Commission moved ahead with the improvement program and it is under construction right now.

THE COURT:

What is the distinction about when the City pays for it? I assume when you say certain high priority areas where you do paved work without assessment, what makes the determination where you pave without assessment and where you don't?

A We don't assess, your Honor, on major streets. Take Airport Boulevard, for instance, that is a major street. Normally we try to get some federal or state and county participation in a project such as this. On all residential streets that we improve, whether it be low cost or regular curb and gutters and underground drainage, we do it on an assessment basis.

THE COURT:

Are all the streets in the area -- is Lincoln Street a residential section?

A Yes, sir. And as I said, it was not until they agreed to the assessment program -- let me explain the assessment program. We could go out and say we are going to assess part of this project to the property owners. We assess one-sixth of the cost of the project to the property owner. So, it still costs, out of the treasury of the City of Mobile, many thousands of dollars on most any kind of project, because one-sixth on each side of the street would be actually one-third.

If a project costs ninety thousand dollars, sixty thousand comes right out of the treasury where thirty thousand comes out on either side of the street.

Q What is your policy with reference to the construction of sidewalks? A number of black witnesses have complained because they don't have sidewalks.

A Well, it has been our policy to install sidewalks in any area where the people petition the City Commission for sidewalks, because we assess the cost of that improvement against the property. Our policy on new subdivisions is that they install the sidewalks. So, if a new subdivision goes in, before we accept the subdivision, the developer places the sidewalks on the property.

over the two-thirds or three-fourths of the people in the community to please the one-fourth or one-third.

Our normal way of handling it is for a community, the number of people -- ever how many to request the sidewalks and then we would try to initiate the program and have the hearing and move on with it.

MR. ARENDALL:

That probably is clear, but you would not, for example, assess for repaving Government Street, would you?

A No resurfacing programs are not done on an assessment basis. That is a maintenance problem.

We spend about two hundred and fifty to three hundred thousand dollars a year on resurfacing. Right now we have many hundreds of miles of streets that need to be resurfaced and in the not too distant future I will be coming to the Commissioners on my knees with hat in hand, so to speak, to keep our streets in good repair.

That comes right out of the general fund of the City and as a maintenance expenditure. We don't assess for resurfacing.

Q Do you believe, Mr. Mims, that under your administration that the black communities have been treated fairly with reference to drainage, paving, sidewalks and -- well, those matters?



A I most certainly do. I don't think I have ever -- in fact, I will be emphatic and say I have never denied any citizen a service that he expects with his tax money because of a certain color or social standing.

Q Now, there has been some testimony here about weeds and underbrush on large tracts, specifically about some property belonging to Mr. Meaher and located in the Plateau area.

What is the policy of the City with reference to large tracts?

A We have a state law and I am not familiar with the number and what not, but I know it is a state law that deals with noxious weeds. This law allows us to post a lot and cut it if the property owner does not cut it and assess it against his property. Our policy on large tracts of land, if we get a complaint from Mrs. Jones, who lives next door to this large tract of land, our policy is to go out and post a fifty foot strip around this ten acre tract or whatever it might be, and give the property owner who lives next door to this tract at least a clearing between them and the underbrush and the wooded area, so to speak.

Now, normally this is sufficient and most people are appreciative of the fact that they can get this strip cut next to their property.

A No, but on occasion Dr. Tunstill has been present with these other people to give me advisement.

THE COURT:

If I understand you correctly, you haven't formalized your campaign into committees?

A Well, not officially. We had people doing a lot of things in every campaign I have ever been in. When I ran for the United States Senate, Dr. Tunstill was a part of it and he was right there, but in these City races we welcome help from anyone of any color or any standing.

THE COURT:

Go ahead.

MR. BLACKSHER:

I didn't really understand your answer to the Judge's question, but I will move on to the next one.

Did you regularly, in all of your campaigns, have a campaign headquarters that was staffed by people during whatever hours you kept?

A Yes, we have.

Q Tell me the names of the black people who have staffed your campaign headquarters?

A We did not have black people in the campaign headquarters. My brother is my campaign chairman and he is very particular about who sees our list of supporters and people



who are helping us. He runs the campaign and I try to run the office after I get elected.

Q Jeff Mims is your brother?

A This is correct.

Q And he is chairman of the County Democratic Executive Committee?

A This is correct.

Q Now, about all of these boards and committees, Mr. Mims, would the Clerk please show the witness Plaintiff's Exhibit number 64.

How many of these -- can you point out the boards and committees on this list which, I presume, is comprehensive, to your knowledge, right, and contains all the boards and committees that the city has any appointing power to?

A So far as I know, yes.

Q How many of them, to your knowledge, are set up under State law as opposed to being established by city ordinance?

A I could not answer that.

Q What about the board of water and sewer commissioners? That is established under State law, isn't it?

A It is my understanding that it is.

Q Do you have any idea of how many of these or which of these boards and committees are subject to the control of the City Commission to the extent that the City Commission can

change the ground rules about what it is suppose to do, who it's members are and so forth?

A No, I don't. As far as I know, the water and sewer board, for instance, is charged with the responsibility for providing sanitary sewers, water service for the City of Mobile and I don't have anyone who would want to change that.

THE COURT:

According to my notes only two were established by State law, the boards, the South Alabama Regional Planning Commission, I assume, was established by either the State or some federal regulation, and that is the only ones that I have that indicate, besides the City establishing them -- well, is that true, the board of adjustment, the board of water and sewer commissioners, and the South Alabama Regional Planning Commission?

A Well, I think you would find the Housing Board would be -- has to be a State act that would allow a housing authority.

THE COURT:

Just one minute. What number is that?

MR. ARENDALL:

If I may, we have not researched this and I am really not sure. I believe all of these boards that will relate to licensing people are probably under some state law which

says that the various municipalities shall do such and such in order to issue licenses for contractors and electricians and plumbers and so on. We have not researched and I cannot make that statement.

THE COURT:

All right.

MR. BLACKSHER:

Well, concerning the board of water and sewer commissioners, Mr. Mims, have you made any appointments to that board personally?

A Yes, I have.

Q How many?

A Well, I regret to say that I think I have one appointment in all the years. It has worked around where I have one man on there, Mr. Dennis Moore. I have been in office eleven years and Mr. Moore is my one and only appointment.

There was some mix-up, if I might add, because of some people dying and some particular person appointed them and they felt that they should replace that person or fill that vacancy. Many of these people I have known and certainly have concurred in their appointment.

The late Bishop Phillips was a very close friend of mine and served ably on the water and sewer commission for

a number of years and some of the other people I know quite well and have utmost confidence in them. So, I am not complaining because I can't, you know, appoint but one person. But Mr. Moore I appointed a number of years ago and he has been reappointed at least once since then or maybe twice.

Q Mr. Moore is white, isn't he?

A Yes, he is.

Q I thought we established that Milton Jones is currently a member?

A Yes. He is and Mr. Jones is black.

Q And you were saying that Bishop Phillips was also?

A He was on there prior to Mr. Jones. Bishop Phillips was black.

THE COURT:

This shows no prior black members. Can you account for that?

A I did not prepare this. Reverend Bishop Phillips known by everybody around Mobile, was on there for a long time.

MR. ARENDALL:

Judge, we had this prepared by Irene -- no, Mr. Menefee prepared this. We gave some basic information to Mr. Menefee.

THE COURT:

Counsel for Plaintiff?

MR. ARENDALL:

Yes. Mr. Menefee prepared this and I will be frank to say that I didn't check it.

THE COURT:

All right. I am going to put one in parenthesis by that, prior black members.

Do you know whether or not you gave the information that Mr. Phillips previously served on that board?

MR. BLACKSHER:

Bishop Phillips and Mr. Menefee informs me that Mrs. Quinn identified the persons on this list who were black and failed to identify Bishop Phillips.

THE COURT:

All right.

MR. BLACKSHER:

So there are actually two out of the twelve people that have been on that board that have been black?

A I don't have that information before me.

Q I believe you testified, Mr. Mims, that you had some difficulty finding citizens to serve on these various boards.

Have you had difficulty finding people to serve on these boards?

A On the water and sewer board?

Q Yes, sir.

A Well, as I indicated a moment ago, I have only made one appointment that I could point to and that is Mr. Moore.

Q Did you have any difficulty locating someone?

A No. I did not, because I appointed Mr. Moore and I have not had an opportunity to appoint anyone else since.

Q You have given us an example of how Mr. Gary Cooper walked into your office one day and said that he wanted to participate and I believe you said that you had never seen him before and that provided you an opportunity to appoint him to some board.

A To the auditorium board.

Q Isn't that a general problem you have in finding qualified black persons to serve on these boards is that you just don't know that many black persons personally, like you do the white people that live in your immediate community?

A I know a lot of black people, personally. I speak in black churches. I go to black meetings. I know a lot of black people.

You have to have people that express interest. My door is open to people. I have a meet the mayor day every Wednesday and I have people coming and going, blacks and whites and unless people express an interest in serving their community on a specific board or in a specific area then it is



not my policy to go out and pick people, you know, and put them on a board unless I know they want to serve and unless I know they have some interest in a particular area.

Q Are you saying that you have never appointed anyone to a board at your own initiative or at your own invitation, but have only responded to requests that were made in the first instance by other people?

A I have requested certain black leaders to provide me black lists of black people that would be willing to serve on boards. I know a lot of black people, but to have them say I want to serve or I will be willing to give so many hours a month, a very few of them have done this. I am going to be frank with you about that.

Q Who are the black leaders you requested to provide a list?

A Various people, ministers and various leaders in the community.

Q Name one.

A Well, the Bishop that I just mentioned awhile ago has provided some names over the years.

Q Bishop Phillips?

A Yes.

Q Who else?

A Reverend Tunstill, and Mr. LeFlore use to provide

some names.

Q Mr. LeFlore?

A And others.

Q And others? Others that you can't recall, now?

A No. I can recall. I just mentioned Dr. Carroll.

In fact, of the business, I helped to get Dr. Carroll appointed to a state position.

Q Have all of these people provided you with a list that you requested?

A They would give me a name now and then. I doubt very seriously if anybody has given me a list of names. I rely on black people I know to tell me if a certain person wants to serve or will serve or is qualified to serve. I don't think because a person is black or white makes him necessarily qualified to serve in a given area.

Q You have requested, you say, a list of names, but whenever you have had a chance to want to approach the black community you have gone to one of these black leaders that you knew and ask them for a name, is that what you are saying?

A Well, yes.

Q So, what kind of occasions would prompt you to say well it is time for me to consider a black person for this board and I will see one of my friends, who is a black leader, and ask him for a name.

A What kind of an occasion?

Q What time would you do that? Everytime you had an appointment would you request the name of qualified blacks that you would consider along with other people or just certain occasions when this would come up?

A Well, on some of these boards, as it has already been indicated, you have to have engineers and architects and things like this and you get these recommendations from these various boards and committees and groups. They send in these recommendations.

On others, like the auditorium board, if there is an opening coming up and it is important to me to make the appointment, then I will look over the list of people that I have confidence in and I might call.

Q You have a list that you keep at your desk of people that you have confidence in?

A I have friends that I have confidence in and I have friends that I don't consult for advice and then I have a lot of acquaintances and I am sure that every individual, whether he is in politics or not, has close associates, friends and acquaintances. So, if I were looking for a person to put on a board this afternoon I would call somebody that knew people out in that community, both black and white.

Q Out in which community?

A In whatever community I was trying to find or whatever area I was trying to find an appointment in.

Q Well, I guess that is what we are trying to get at is to figure out how you zero in on a community when you find out there is a need for an appointment?

A Well, if one of my appointments on the auditorium board were to resign this afternoon and it was determined that this person was my appointment and -- incidentally, I appointed the first black to that board and appointed the first woman and the first woman black I appointed to that board and so if that opening were to come about this afternoon, then I would start researching within my own mind who I could fill that vacancy with and it might be that I would call a white person or it might be that I call a black person and ask for a recommendation, someone that was qualified to serve and someone in whom I had great confidence.

I have not made it a great practice calling up these people after they got appointed to a board and pull strings and treat them as a puppet. That is not my policy. I appoint people I have confidence in and on occasions some of them have disappointed me.

Q You said that there are a number of committees where you must select persons nominated by boards of architects or



engineers and what else did you mention?

A Well, some of these you have to have someone familiar with air conditioning, for instance, and air conditioning professional groups. I don't even remember what they are call, but they make these recommendations. I can't help it, because they don't have a black air conditioning engineer that they recommend to us.

Q Let's get something straight. You are not saying that there are no qualified black engineers or air conditioning people or whatever; you are not saying that?

A I am saying that I have tried to find a black civil engineer for eleven years and I don't have one yet on my staff.

Q There are no black civil engineers in Mobile?

A I have not been able to locate them.

Q Okay. Where do you look when you are looking for a black civil engineer?

A I have been told a number of engineers, including the engineering school at South Alabama. I have talked to people in other parts of the country who are in the public works field and I have talked to the commissioner of public works in Atlanta, who is a black man, and who is a civil engineer and he confesses he can't find black civil engineers and I have let the personnel board know that I would like to have a black engineer on my staff.

We go into every area of the City and deal with all of the people and I would like to have a black representative on my staff, but I have not been able to locate a black civil engineer.

Q Does that hold true also for architects?

A The only black architect I know is Mr. Jones, who is on the water and sewer board.

Q Do you know of any black architects employed with the Corp of Engineers?

A I think that is the problem, the federal government takes them all.

Q Just because he was employed at the Corp of Engineers didn't stop you from appointing him to the water and sewer board?

A No. You miss the point.

Q I am sorry, give it to me again.

A I am talking about as a staff person, now. I have looked for a .....

THE COURT:

You mean a full time employee?

A Yes, your Honor. I have looked for a black civil engineer to put on the staff full time with the City of Mobile and I have not been able to locate one.

MR. BLACKSHER:



We were talking about boards and committees.

A Well, if I can't find one to hire, I certainly don't know if I could find one to appoint to a board.

Q Well, you find an architect that you couldn't hire that you probably could have appoint to a board.

A He is the only black architect that I know and I am not trying to be smart. He is serving on our water and sewer board and he works for the Corp of Engineers and I imagine makes more money than he could working for us.

Q If I told you there were two other black architects working for the Corp of Engineers alone, would that surprise you?

A No. It wouldn't surprise me. I just don't know these gentlemen.

Q This Mobile Transit Authority you said was recently established and that is not on the list, is it?

A No. I don't think so, because it is fairly new.

Q How many members are on the authority and how many of them are black?

A Well, I have two appointments and I think the other two commissioners have two appointments and one of mine is white and one of them is black.

Q I am sorry, run that by me again.

THE COURT:

What is the total number?

A Six, your Honor. Each commissioner has appointed two.

THE COURT:

How many total blacks?

A One.

THE COURT:

That was your appointment?

A Yes.

MR. BLACKSHER:

Who was that black person you appointed, Mr. Mims?

A Marshall Robinson.

Q And yet the black citizens of Mobile are the overwhelming percentage of the patrons of the transit system. I mean, did that occur to the commissioners when they were appointing?

A Sir, I can only speak to myself. I put one black and one white out of the two. I don't know what else I could have done.

Q I think we have talked about this the last time we appeared in the Court together. One of the facets of the City Commission is that you are only responsible for you and not responsible for the others?

A I am responsible to the people of Mobile and I think I have met those responsibilities quite well.

Q By the way, concerning the transit authority, is it a fact that there are just aren't any bus routes that go north and south between the north end of town and the south end of town, you know, through Government Street? Don't they all have to go down to the foot of Royal Street and transfer there and go all the way back out again in one direction or the other?

A Well, the City of Mobile is so laid out to the core, that the central core is by the river and, over the years, the routes have all been designed to come into the central core.

Now, studies have been made by the new operators of the system and we have a professional operator who is helping the authority. They have some new route configurations designed. As far as them going right straight down from Prichard to Navco, I doubt very seriously if that will ever be. In this business I have found we have more expert traffic engineers and more expert civil engineers and more experts than you can shake a stick at and everybody says why don't we have a bus to run from Trinity Gardens to Navco interchange. That doesn't mean that people are going to ride just because somebody thinks that ought to be. This is like testimony given here earlier today that a traffic light ought to be at their corner, but it doesn't mean it is necessarily justified.

Q Who was that that said everybody wanted a traffic

light at their corner?

A I think it was brought out earlier in the testimony, I think Mr. Doyle said so.

Q Mr. Doyle wanted it?

A No. He didn't say he wanted one.

Q Okay. We have this board of adjustment, number one, looks like it is -- we have one black out of a history of sixteen total members. Do you know any reason why there were not any more blacks than that appointed to this particular board?

Is it a question of availability of some particular skill; or something of that sort?

A I do not know the answer to that question. I do know the board of adjustments membership on that is not an easy role, because these people, whether black or white, come under an awful lot of pressure when you have a hundred people in the chambers and fifty-four something and fifty against it.

Q What has that got to do with my question?

A Well, it has a lot to do with the question. Getting somebody that wants to take that pressure and strain and listen to all of that static and any member of the press can tell you what goes on in a board of adjustment meeting.

Q Are you inferring that there have been black people unwilling to take that pressure?



A No. I didn't infer black or white. A lot of people wouldn't take that pressure.

Q You are not saying that there are not qualified black citizens in Mobile who were able to serve on the board of adjustments?

A No. We have one on there.

Q Is he the only qualified person?

A I did not say that. I have not implied that there were not qualified blacks.

Q What about this air conditioning board? This is the board that screens applicants for licenses for people who want to do air conditioning work?

A As I understand it, yes.

Q As a matter of fact, there is a lot of air conditioning mechanic type courses in the local trade schools, isn't there?

A So far as I know.

Q Southwest Technical State, Carver State, I think both have courses, don't they?

A I am not familiar with that.

Q You are not saying that there are no black persons in this community who are qualified to serve on that board, are you?

A No. But we have not received recommendations from these various agencies that make the recommendations.

Q The air conditioning contractors?

A When those recommendations come up to us, we don't know whether they are black or white. They recommend Mr. Jones, Mr. Smith or whoever.

Q And it is these private agencies that control on who serves on the board?

A They make their recommendations to the city commission and we appoint them.

Q You are powerless not to appoint their recommendations; is that correct?

A I think these requirements are specified in the ordinance of the state's statute and these people are rightfully making these recommendations to us.

MR. BLACKSHER:

I believe, your Honor, we could have this document marked, but the information was turned over to us from the City indicates that the air conditioning board is established by a city ordinance. Do you want to stipulate to that?

MR. ARENDALL:

Whatever it shows, Jim. I have really done no research on these things.

MR. BLACKSHER:

In fact, the air conditioning board ordinance says it shall be composed of five members appointed by the City



Commission. It shall consist of the following members; one air conditioning refrigeration mechanic, one business principal of a registered air conditioning and heating firm; one principal of a registered air conditioning and heating firm that is primarily engaged in installing heating and air conditioning systems and residences and one independent practicing mechanical engineer, a registered engineer in the State of Alabama, and one representative of the public.

So, it appears that no one makes recommendations to that board. Does that come as a surprise to you?

A No, it doesn't come as a surprise. We have forty-six different boards and commissions here and I think it would be impossible for me to be familiar with every ordinance and state statute. I can say emphatically that no black person has ever come to me and said, "Mr. Mims, we would like some representation on the air conditioning advisory board." I have had no complaints in the eleven years that I have been in office.

Q Have white persons come to you and requested representation on the air conditioning board?

A No.

Q Now, this Mobile Bicentennial committee. Is there any reason why there are three out of forty-six members that are black? Are there any qualifications that you felt ruled out

any black citizens in substantial numbers to that board?

A We appointed some blacks to this, ever how many to begin with, and then this committee kind of grew on us, because a number of people expressed interest in the bicentennial celebration and, as a civic club, well, they would say you ought to put Mr. Jones on here. He is, you know, involved with the ROTC, or whatever, and he ought to be on the bicentennial committee and the City Commission kept adding and adding and we wound up with whatever it says here, forty-six members, but go back and research the records at City Hall and you will find out that we started off with about twelve members, three of which were black, and it grew and grew and grew and that is the only explanation I can give you.

Q The explanation, as I understand it, being they just wanted black groups like white groups expressed interest in joining the committee, is that what you are saying?

A Well, yes, and also the blacks have not expressed as much interest, as I would like to have seen them express, in our Independence Day celebration. Every year out of thirty-five thousand at Ladd Stadium I doubt seriously if we had seven hundred blacks and it was a free program for all the citizens of Mobile and we have encouraged everyone to come and enjoy this program.

Q By the way, I attended the program and you say there were seven hundred black people in the audience?

A This would be my estimation.

Q I guess you were counting the people sitting in the end zone stands, mostly?

A No. I tried to look over it as I made a circle around the field and on the stage and I just did not see many black people present at that bicentennial or that Independence Day celebration.

Q In point of fact, I didn't see any black entertainers and I thought that was regrettable.

THE COURT:

Well, you ask questions and don't get into an argument.

MR. BLACKSHER:

Were there any black people, entertainers, besides the black people in the marching band?

A No.

Q We have the item seven, which is the center city development authority which is, as my notes say, is suppose to rejuvenate or help rejuvenate the inner city out to the Loop; is that correct?

THE COURT:

Let's don't get into another subject here. We will

A Its basis of funding is from the member governments that participate and contribute on a per capita basis and they use that funding to match certain federal and/or state or special agency programs.

Q What agencies in Mobile County participate?

A I am not sure, but I think all of the municipalities in the County government are members.

Q Is the South Alabama Regional Planning Commission controlled by the Mobile City Commission?

A No, sir.

Q To what degree does the Mobile City Commission input have on any influence on its operation?

A Only as voting members. We are members of the executive committee and various aspects of the organization, but we vote -- their voting is on a per capita formula basis. So, that whatever our proportion of our population is to the three county area, that is what our voting is.

Q Now, Mr. Greenough, in your 1973 election, you were opposed by a Mr. Bailey, you were not?

A Yes, sir.

Q Were there any other candidates in that election?

A Yes. There were two others.

Q Who were they?

A Mr. Bridges, Earl Bridges, and Mr. Ollie Lee Taylor.

Q Mr. Ollie Lee Taylor was black?

A Yes, sir.

Q How did the first election come out?

A Mr. Bailey and I were in the runoff.

Q Who was ahead?

A I think Mr. Bailey was.

Q Did you make any efforts to get black support in the original election?

A I did from the outset of my campaign and all the way through the runoff.

Q Is it fair to say then that you were not concerned about being tagged with the black vote?

A I was looking for every vote I could get.

Q Bailey actually got some forty-eight point one percent of the vote in the original election, did he not?

A Yes, sir.

Q And you were the decided underdog at that stage?

A I think everybody had that opinion, yes.

Q Did you go back to the black community and seek their active support in the runoff?

A Yes, sir. I did.

Q Were you successful?

A I think the statistics would reveal that, yes.

Q Do you believe that the black vote or the vote of blacks

in the black areas constituted the swing vote in that election?

A That is awfully hard to answer. I presume, if you hold all other votes in isolation, the answer would be yes, but I think this is a rather static way to look at it. I think there is much more dynamics involved in the election process, but actually I would have to say that generally, probably, yes.

Q In any event, you did, in the runoff, secure a substantially larger percentage of votes in the black areas than you did in the initial race, did you not?

A To my recollection, yes.

Q Did you have any assistance from leaders of the black community in connection with that campaign?

A Fortunately, yes.

Well, I should say the younger element that has sometimes been described as the young turks, tended to be in support of my candidacy.

Q Could you identify some of these?

A Well, there are some well known names and there are many others not well known, probably, but one who is now a member of the Alabama House, Gary Cooper, was a very strong public supporter of mine. Milton Joiner, a young man with whom I had gone to the University of South Alabama, and many others.



and I think Mr. Mims has discussed the representation or lack of it of the City of Mobile on the supervisory commission. I have neglected or did neglect to ask him, but is there currently pending some effort to get that changed by legislation?

A Yes, sir. Representative Gary Cooper has introduced a bill which would accomplish several things. I am not intimately familiar with it, except the essence of it is to allow for a broadened base of representation on the board, itself, as well as the board selection procedures and, thus, I guess the supervisory committee.

I think that I would have to say, to my recollection, I did publicly and I think my two fellow commissioners both herald this as a positive step in the right direction, although I don't think any one of the three of us saw this as the ultimate cure and, again, I say I think representative Cooper realizes these sorts of things must be taken one step at a time.

Q Mr. Seales testified about the absence of a park in the Texas Street urban renewal area and that is under your jurisdiction.

Can you tell us briefly about that?

A Yes, sir. With the proper difference to our present company, the delay in that whole program is traceable to the

MORNING SESSION

July 20, 1976

9:00 o'clock,  
A.M.

THE COURT:

All right. Is Mr. Mims back?

MR. ARENDALL:

Yes, sir.

LAMBERT C. MIMS

the witness, resumed the stand and testified further, as follows:

THE COURT:

All right. Gentlemen, you may continue with the cross of Commissioner Mims.

CONTINUED CROSS EXAMINATION

BY MR. BLACKSHER:

Q Mr. Mims, I direct your attention to Plaintiff's Exhibit 64, again.

Do you have it in front of you?

A Yes.

Q And in particular, to committee number 7, center city development authority, and I understand that is some sort of authority that is designed to help rejuvenate the inner city out to the Loop.

Would you be more explicit about what that authority does?

A Well, this is a new authority that has been created in recent months and the idea is to preserve what would be called the older section of Mobile to make sure that it doesn't deteriorate and that it is restored and refurbished and rejuvenated, so to speak.

Q You mean the older residential section or the older business section?

A Both.

Q The city has only one appointment to that committee or to that authority?

A No. This is in error as we brought out earlier. There are several persons on this authority, including the City Commissioners and if I am not mistaken the mayor, whoever serves as mayor at the time, is the chairman of this authority and it includes people who are connected with the downtown Mobile Unlimited program, as well as other businessmen and property owners in the area.

Q Businessmen and property owners. Are there any blacks on that authority and, if so, why not?

A There are no blacks.

Q I asked why not?

A I could not answer that.

Q They are appointed by the City Commission; is that correct?

THE COURT:

If I recall correctly, your testimony yesterday was five was the number including yourselves on that?

A I believe that's right, your Honor.

THE COURT:

Are there any other commissioners on that?

A If I am not mistaken the commissioner serving as mayor is on there.

Your Honor, I am not sure if the other two commissioners are on there or not.

THE COURT:

All right.

MR. ARENDALL:

If your Honor please, I have here a list of the members of that committee. Would you like that?

THE COURT:

Yes.

MR. ARENDALL:

This is dated March 25th -- no. The ordinance was dated March 25th, 1975. I am not sure as to the precise date of these, but members are all three commissioners, Mr. James Van Antwerp, Jr., vice chairman of the committee;

Mr. Ken L. Lott, who is an officer of the Merchants Bank;  
Mr. Don Henry, and I don't know what he is. Mr. H. J.  
Goubil, who is with Title Insurance Company.

THE COURT:

How do you spell that last name?

MR. ARENDALL:

G-o-u-b-i-l.

THE COURT:

Well, that gives seven, then, instead of five; three  
commissioners and four businessmen.

MR. ARENDALL:

Yes. I understand, Judge, from Mr. Greenough, he  
had something to do with the appointment of this and he can  
testify about it perhaps and knows more about it than  
Mr. Mims does.

THE COURT:

All right.

MR. BLACKSHER:

Mr. Mims, you are not suggesting, are you, that there  
are no black businessmen or property owners who are not  
interested in downtown Mobile?

A Absolutely not.

Q By the way, is there a similar authority or committee  
that has, as its purpose, the rejuvenation of the black

business districts of Mobile?

A This particular authority is interested in the entire  
area from the water front to Government Street Loop, without  
exception to race or color.

Q Yes, sir. I am speaking about the area from Broad  
Street out Davis Avenue, north of the Prichard City limits,  
which is where the black business district is, traditionally.

A There is no authority set up with the responsibility  
for that specific purpose, no.

Q Can you direct your attention to number nine, board  
of electrical examiners which there have been no blacks out  
of a total of seven members, over the years, and I believe  
you said that various contractors, the IBEW, Alabama Power  
Company nominate people for this board?

A It is my understanding that people who are associated  
with the electrical profession, for lack of a better word, are  
the ones who are appointed to this electrical examining  
board.

Q Once again, I want to make sure that the record is  
clear that the City is not bound by ordinance or otherwise  
to accept the recommendation of these private agencies,  
is it?

A I would not think so. However, we abide by the  
recommendations of these various groups.



Q Whoever they recommend, you as a formality, go ahead and approve?

A Normally that is the procedure.

Q You are not suggesting either, are you, that there are no black qualified electricians in the City of Mobile?

A No, sir. We have a very fine electrician working for the City. In fact, he is head of the electrical inspection department.

Q Item ten, citizens advisory group for the mass transit technical study, which shows that three of the eight members are black.

Isn't it true, Mr. Mims, that the federal government, in an attempt to meet the Title six requirements, expressly required the City to appoint the three blacks to that committee?

A I do not have knowledge of that requirement.

MR. BLACKSHER:

Would you mark this, Mr. O'Connor.

(Plaintiff's Exhibit 103 received and marked, for identification.)

MR. BLACKSHER:

This 103 will be two documents. Actually, one is the list showing the members of this committee, citizens advisory group for mass transit technical study, and attached

to it is a letter to Mayor Greenough from the South Alabama Regional Planning Commission dated January 20, 1975.

THE COURT:

What is the number of that, please?

MR. BLACKSHER:

103. Look at the list that I referred to at the bottom of the first page and you will see where the South Alabama Regional Planning Commission, pursuant to Title 6 of the Civil Rights Act, is recommending that people be appointed. I believe there are two non-minority female, two minority female and the same for males, right?

A This is correct.

Q In point of fact there appear to be only three blacks as one of the other eight committee members, a minority person, other than a black to act for the four that the Federal government asked be appointed?

A Are you asking if they are a minority?

Q Yes, sir. I am asking if one of the remaining eight members other than the three blacks is a minority person?

A I imagine you could call Mr. Briskman a minority. He is a jew. Mr. Zoghby is a Syrian.

Q One of those would classify as a minority, in your opinion?

A I would think so.

Q Let's talk a little bit about the item eleven, the citizens advisory committee on the Donald Street freeway in which eleven of fifteen members are or were black.

Do I understand you to say it is defunct, now?

A I think perhaps it has already served its purpose to try to establish this corridor through this area of the city.

Q Why were there so many blacks on this particular committee, Mr. Mims?

A If my memory serves me correctly, one of the requirements by the federal highway administration and others was that there be people from the area that is being affected and, of course, this road was going out Congress and Donald Streets through Toulminville and my answer would be it went through this area where many of these people lived.

Q It is a predominantly black residential area?

A I would say so, yes.

THE COURT:

What number was that?

A Number eleven.

THE COURT:

Okay.

MR. BLACKSHER:

How did you locate the black people that served on that committee, Mr. Mims? How did the commissioners locate them?

A If I recall the particular meeting, we sat down and looked at the area that was being affected and tried to get some people who were interested or would be interested in where the road went.

Q Yes, sir. I understand that. My question is, how did you get the people?

A Well, sir, I look at a list of people and try to recall who lives in what ward and what area of town and make my appointments.

Q Did you have any difficulty in getting people to serve on this committee?

A According to Mr. Joiner, who was our liasion.....

Q Milton Joiner?

A Earl Joiner, public works engineer, served as liasion for the City Commission. According to Mr. Joiner sometimes they had very high attendance of people who attended the meetings.

Q No, sir. I asked about getting people to serve on the committee?

A I thought we were talking about serving. Persons don't come to the meeting they are not serving.

THE COURT:

The thrust of his question is in finding people to make the appointments?

A Your Honor, I don't recall that specific point.

MR. BLACKSHER:

All right, sir. I next direct your attention to number twelve. I think I have not moved the introduction of Exhibit 103 and I so move.

THE COURT:

Let it in.

(Plaintiff's Exhibit number 103 received and marked, in evidence)

MR. BLACKSHER:

Item number twelve, the codes advisory committee where there have been no blacks.

Why is that, Mr. Mims?

A I could not answer that.

Q Architects, structural engineer, mechanical engineer, electrical engineer, member of the building trades, a general contractor, home builders, real estate -- this is a body that passes on what building codes will be adopted and enforced by the City of Mobile; is that correct?

A This is correct.

THE COURT:

Does that include residences?

A All buildings, sir.

THE COURT:

All right.

MR. BLACKSHER:

In point of fact, Mr. Mims, not all or very few of the people on this list, and I have that list before me, a very few of them are actually recommended by an outside agency; isn't that correct, or do you know?

A I do not have the list before me.

MR. BLACKSHER:

I think we will introduce this into evidence, your Honor. This is the list and the ordinance that creates this particular committee. Perhaps it will be useful to have all of these in the record.

(Plaintiff's Exhibit number 104 received and marked, in evidence.)

MR. BLACKSHER:

I will go on to the next one, your Honor.

I move the introduction of 104.

THE COURT:

It is admitted. Go ahead.

MR. BLACKSHER:

Item thirteen is the commission on progress.



As I understand it, that is a committee that you personally had some responsibility in forming?

A This commission was in existence when I assumed office in 1965. It was called a bi-racial committee. It was at my suggestion, after the racial strife of the sixties and we moved on to trying to make progress in other areas, that we changed the name to commission on progress, because the group was considering matters other than race related matters and matters that dealt with things other than race, but I have had close association with this committee or this commission over the years that I have been in office and this committee has done a good work for the people of Mobile.

Q There was a conscious effort to insure there were a repetitive number of black people on this committee, I take it?

A Yes. It was established as a bi-racial committee from the very beginning.

Q What was some of the other areas that this committee got into that caused you to change its name?

A Well, economic -- in the area of economics. In other words, trying to obtain jobs for people and see that every one could get a good job in Mobile. We have put forth every effort down through the years.

This committee has also discussed problems as they

related to police in public works and other functions of city government. So, at their meetings, many many different matters have been discussed, parks and playgrounds and public work matters and police matters and general governmental services, all of these things have been discussed by this committee.

Q It sounds like it was duplicating the function of a number of other bodies that we have been talking about?

A Well, I am sure there would be some overlapping in a number of areas.

Q The important thing is that it had a bi-racial composition, as I understand it, that was intended to create a sign of unity in the community on these issues?

A I think it did create unity and created much more unity than maybe it was given credit for having created.

Q You nevertheless thought the term bi-racial committee was not an advisable thing to have during the last part of the sixties?

A During the late sixties it was known as a bi-racial committee and then, at some point in time and I could not tell you when the name was changed, but it was, at my recommendation, and I made a newsrelease on it and it is all a matter of record. We did recommend to change the name because it was dealing with matters other than purely race

related matters.

Q Have you had any trouble finding black people to serve on this committee, Mr. Mims?

A We, as far as I know, have been able to get people to serve, not every one has one hundred percent-attendance. It is spasmodic, as far as attendance is concerned, on both the black side and the white side.

Q Okay. I next direct your attention to item fourteen, the educational building authority.

As I understand it, this was some sort of authority established to enable city bonds to be sold to finance capital improvements on some educational facilities; is that correct?

A So far as I know. You will have to refresh my memory with some of these authorities, if you don't mind.

Q You don't happen to know which educational facilities received the benefit of these bonds, do you?

A On this particular authority I could not tell you, to save my soul.

Q It wasn't the Mobile County Board of school commissioners, the public school system, was it?

A I do not know.

Q Could it have been some private schools?

A I just said I do not know, counsel.

Q Who would know, Mr. Mims?

A Well, I assume that Mr. Arendall has the file with the functions of these various authorities. I am sorry, your Honor, I didn't bring all of this up here with me and I hope the Court will understand that I can't remember all of this.

As we indicated yesterday, we set these authorities up and they serve as a vehicle for financing and we have very little to do with it once the group comes to us and asks us to form this committee or this authority. They go on with the function and provide the buildings for public use. So, I really -- I have been too concerned with drainage....

MR. ARENDALL:

If your Honor please, we have furnished to the plaintiffs a list of the membership of each of these various commissions and boards and indications of by whom they were appointed or recommended and the copy of the ordinance under which they serve. I see, as to this particular one -- and I don't know this adds anything or will trigger anything in Mr. Mims's mind, but this says it was the application of Messrs. C. T. Cartee and Guy W. Reynolds and so forth.

A I remember a Dr. Thomas, a lady, if I am not mistaken.

THE COURT:

Does that trigger what they came to you for in the purpose of the authority?

A They came to be able to raise funds to promote an educational facility.

THE COURT:

Was it a private school?

MR. ARENDALL:

Was it a private school?

A I know Dr. Thomas is associated with a private school. So help me, I do not know what the ordinance says.

MR. ARENDALL:

It doesn't identify the school location or anything. What is the name of the private school that Dr. Thomas is associated with, Mr. Mims?

A It is my understanding that the school is located on Government Street.

THE COURT:

Do you know the name of it?

A No, sir.

MR. ARENDALL:

Whereabouts on Government Street?

A The school is located across from Constantines Restaurant.

MR. BLACKSHER:

Gulf Coast Academy?

A That is correct. I spoke at their graduation exercise not long ago and I could not remember the name.

MR. BLACKSHER:

That academy has an all white enrollment, does it not?

A I could not testify to that fact.

Q Did you see any blacks in attendance when you spoke there?

A I don't recall any blacks being at the graduation exercise.

Q Okay. The next one is item fifteen, Mobile area public higher education foundation,

This has to do with the University of South Alabama, doesn't it?

A I do not have the record in front of me.

Q Mr. Cleverdon is on the committee, Mr. Herron, Mr. Little and Mr. Crowe.

A That sounds like the University of South Alabama program.

MR. ARENDALL:

And Mr. Langan.

MR. BLACKSHER:

Right. Mr. Langan, Mr. Smith and others. I won't



read this into the record.

Is there any particular reason why there were no blacks, to your knowledge, appointed to this particular committee?

A No. I do not know that. I think perhaps that was set up before my time at City Hall.

Q Well, yes. It was set up, apparently, in June of 1962. The appointments ranged though from -- well, except for one year in 1962, they ranged from 1970 up to 1976.

A Well, normally.....

MR. ARENDALL:

May I call your attention that according to this apparently the only appointment has come up on this board since Mr. Mims came up on the commission was Mr. Joe Langan's original appointment must have expired and he was re-appointed on September 30, 1974, and that is the only appointment the City Commission has had since that time.

THE COURT:

The city has one appointment to that board?

MR. BLACKSHER:

I will put this in evidence. It indicates to me the original appointments were 10/1/70 and others in '70, '72 and one in '74.

MR. ARENDALL:

I beg your pardon. I see they were originally appointed in 1970. I apologize to you. I misread it.

THE COURT:

Who are the other appointing authorities?

MR. BLACKSHER:

Do you know, Mr. Mims?

A I am sorry. It does say on the list.

MR. BLACKSHER:

There are some county appointments.

THE COURT:

How many?

MR. BLACKSHER:

Five.

THE COURT:

County appointments?

MR. BLACKSHER:

Yes, sir. And there are some school board appointments numbering six.

THE COURT:

That is the county school board?

MR. BLACKSHER:

That's all we have.

MR. ARENDALL:

Jim, it could be that the Cleverdon was also a county

appointment. Apparently, the city has six and the school board has six -- that is, the county has six.

THE COURT:

So there are ten members rather than six members of that board.

MR. BLACKSHER:

More than that, your Honor.

MR. ARENDALL:

It would be at least six and six is twelve and six more would be eighteen.

THE COURT:

Okay.

MR. ARENDALL:

Assuming that Mr. Cleverdon was appointed by somebody and he is on it.

MR. BLACKSHER:

We offer this.

(Plaintiff's Exhibit number 105 received and marked, in evidence.)

MR. BLACKSHER:

Next I will direct your attention to number sixteen, fine arts museum of the south at Mobile, which indicates there have been two blacks out of a total of forty-one members over the years.

Do you know why there have not been any more blacks than that on this commission?

A As we indicated previously, normally people who are interested in arts are appointed to this board, people who make contributions and go out in the community and try to raise funds that would help operate it and make capital improvements. People who express a great deal of interest in the arts have been appointed and recommendations have come from the various groups.

Q There are a substantial number of blacks in this community who are interested in the arts, aren't there?

A I am sure there must be.

Q Fort Conde plaza development authority, number seventeen. There have been no blacks on that committee.

I believe your testimony was that it consisted of three City Commissioners and property owners from that area; is that correct?

A That is correct.

Q Are there no black property owners in the Fort Conde area?

A I have no knowledge of any blacks owning land in that area.

Q There are some black residents of that area, aren't there?

A Absolutely not. No residents at all in that area, at this point.

THE COURT:

He means the immediate adjoining area.

A Well, your Honor, this authority has to do with the property located within the interchange.

THE COURT:

Well, limit ours to that area.

A Well, that was what I was talking about. No, sir. Not that I know of.

MR. BLACKSHER:

Eighteen is the Mobile Historical Development Commission of which there have been a total of one hundred and thirteen members over the years. None of whom are black.

Can you explain that, Mr. Mims?

A Only that we indicated yesterday that we received recommendations from the various agencies that concerned themselves with historic preservation and development and we accept these recommendations as they come to us. Normally they will give us, number one and number two, and we normally select the number one recommendation on the list.

Q Well, this would certainly indicate that there aren't any blacks who are interested in the historical development of Mobile. You don't think that is true, do you?

A All I can do is speak from experience. I haven't heard from too many who were interested in it.

Q I am reading now, Mr. Mims, from Exhibit 76, Plaintiff's Exhibit 76, which is this neighborhoods of Mobile published by the South Alabama Regional -- City Planning Commission, excuse me, page three. Says the essential -- the topic of this paragraph, "People, values and a swelling tone".

"The essential population characteristics and broadly basic values of today existed at this latter time. Migrants from the eastern seaboard, scotch, irish, and english, were settling as farmers in northern Alabama and were the first to use the Tombigbee and Alabama rivers for transportation. Many had settled in Mobile; their uneducated, rough and tumble ways were in strong contrast to the educated, conservative and orthodox habits of the former New England traders and merchants living here. Yet, eventually there was merger of divergence. The few remaining french and spanish families contributed latin values to those of the two major groups. Although approximately one-third of the population at this time was indian or negro, these two minorities had little direct effect on the value structure found in the city."

So, according to this report of Mobile Planning Commission, negroes have had little to do with the historic development?



A They have had little to do with it.

Q Would you agree with the statement?

THE COURT:

I believe the statement is little effect.

MR. BLACKSHER:

I think you are right, your Honor.

THE COURT:

I just listened to what you said.

MR. BLACKSHER:

It says they have had little effect on the value structure found in the city. Would you agree with that?

A Well, that is a document of the City of Mobile and I support the document.

Q Okay. I next direct your attention to number nineteen, the Independence Day celebration committee.

Is that the committee that plans the fair at Ladd Stadium on the 4th of July?

A This is correct.

Q I see it has only one black person out of fourteen members. Can you explain that?

A Well, I can't explain the ratio, one to fourteen, but I can say that all fourteen of these are not active.

Q I didn't understand your answer.

A I said I could not explain the ratio of one to

fourteen. However, I could say that all fourteen have not been active. The black member has been active. If I am not mistaken it is Mr. Leroy Davis, a very fine businessman.

Q And he was appointed by you, in fact?

A I think that's right.

Q I think I will introduce this list of members into evidence. For the record it shows who appointed them and when. (Plaintiff's Exhibit number 106 received and marked, in evidence)

MR. BLACKSHER:

Mr. Doyle and Mr. Greenough have not appointed any black members to that commission.

Do you suppose that might have anything to do with why you saw a smaller turn out than you expected of black people at that event?

A No. I don't think that has anything to do with it. I don't think the membership on the committee has a thing in the world to do with the number of people who turned out.

Q Could we talk about the event that we all witnessed here recently just a second? Now, it started out with a marching band and then there were some floats that came out. Among those floats were there any blacks riding those floats?

A I think there was a black lady on one of the floats who gave the pledge to the flag.

Q You are absolutely correct. She was the only black person on the platform, as I recall.

A Well, that might be true, but I call your attention to the previous years when we had black ministers on the platform and on a number of occasions have had black people on the platform. This year, maybe one was on the platform, but that has not been the case every year. I know the first year we had it we had the bishop, I think it was a black man from New Orleans, came here and gave the invocation and other blacks have been on it, too. I think Bishop Smith has been on it and other blacks in years passed. I am sure the committee, when they were .....

Q Well, what happened this year? There was a conspicuous absence of blacks on that field this year and I wondered what happened.

A Well, I am not a member of that planning committee. Mr. Isocket is chairman of that committee and they have worked extremely hard to put on a good show for all of the people of Mobile every year and we run ads in the Beacon and run ads in the Mobile Press Register and we encourage people and I have been on the radio time and time again on all stations encouraging people to come to the Independence Day celebration. We can't make people come to the stadium to celebrate the birthday of our nation. I can't answer that

question.

Q The two principle entertainers were Mr. Jerry Clower, a very fine comedian. I think you would have to admit that his style of humour was not ethnically aligned with the black culture, would you?

A I didn't look at it that way. Mr. Clower is a fine christian man and I know he doesn't have any animosity or ill feelings toward any race or nationality. I think that to be a fact.

Q In point of fact, he made one joke of how he was tired of shiftless people who weren't working or something to that effect.

A Well, of course, if the shoe fits you have to wear it.

Q And the second major entertainer was the Nashville Brass.

A A very fine group of entertainers, yes.

Q Who played a number of excellent songs, including one rousing rendition of Dixie, as I recall.

A Well, that is correct and I was amazed that a black major standing right in front of me stood up.

Q Along with everybody else, at that point?

A Well, if you were watching me, I was reluctant to stand, but I am an American and I believe in our country and, to be frank with you, I am a little reluctant to stand to



anything other than to Amazing Grace and the Star Spangled Banner.

Q I appreciate that, Mr. Mims. Let's move on to the next one. The industrial development board is number twenty and there have been no blacks out of a total of fifteen members. The industrial development board, the ordinance does not tell us what use is going to be made of the monies, the capital monies, that will be raised through these municipal bonds. I take it that is what it was for, wasn't it?

A The industrial development board is a vehicle whereby industries can obtain funds to expand or develop new industries that create jobs and, over the years, many hundreds and even thousands of jobs have been created because of this board's involvement and because it can be used to obtain the funds for industrial development and, of course, we have blacks and whites in all segments of the community working at these industries that have been provided because of this industrial development board.

Q According to the list here, every one of the members has been recommended by the Mobile Chamber of Commerce?

A I am sure this is correct.

Q And to get back to my last question, which really wasn't answered. Can you tell me some of the plants, factories or businesses that have benefited from these bonds?

A Well, a number of them. I think both of the paper mills have benefited from these bonds, the new paint company going in down at the Theodore Industrial Complex. I don't have the list, but a number of firms have benefited and the community has benefited.

Q Smith's Bakery?

A It is my understanding that Smith's Bakery used industrial development bonds, yes.

Q And Coca-Cola Company, Delchamps?

A Well, there are a number of them and all of them mean an awfully lot to this community. They have big payrolls.

MR. BLACKSHER:

We offer this.

(Plaintiff's Exhibit number 107 received and marked, in evidence)

MR. BLACKSHER:

Wouldn't you think there were a number of black businessmen that would be interested in serving on that particular board?

A I do not know.

Q Do you have any boards or committees for the City of Mobile that provide development bonds for minority enterprises?

A Well, anyone has an opportunity to come before this board and seek funds or seek a bond program that would generate



funds without regard to race. So, I would suggest that minority groups or anyone else who would be interested would come before this board.

Q Do you know whether or not any minority groups have, in fact, used it?

A I do not know.

Q I am going to skip over a number of these and try to make these move along a little faster, Mr. Mims, unless there is something you would like to say about any of them.

You said, at this point in your direct testimony, that the City Commission has little to do with these boards after the members are appointed; is that correct?

A These boards that are set up on these authorities that are set up for strictly financing, we have very little to do with it. Now, I am not saying that we have very little to do with all of these boards, because you skipped over one of the most important ones.

Q The Housing Board?

A That's right. A very important board and we do make appointments to this board and we do have close relationships with this board.

W finance a lot of projects. The city of Mobile has expended millions upon millions of dollars of urban renewal funds that have cleaned out slums and provided better housing

for our people.

Q You will admit that the majority of the clientele for the public housing board are black?

A This is correct.

Q And concerning the public housing projects that have been built by the City of Mobile it is also a fact that they have also been located in black neighborhoods; isn't that correct?

A Well, they are located in predominantly the older sections of the city, because this is .....

THE COURT:

Well, are they predominantly black?

A Your Honor.....

THE COURT:

I am speaking of where the work was taking place.

A Well, yes. I would say so.

THE COURT:

All right.

MR. BLACKSHER:

Back to my point about the involvement of the City Commissioners once these boards are appointed.

Was it my understanding that they pretty much functioned on their own once they are set up?

A Well, this is true and, as I testified earlier, I

appoint people to these committees and boards that I have confidence in and I don't pull strings. They are not puppets on the string for Lambert Mims when I appoint them.

We depend upon these people to run these operations. Now, that doesn't mean we don't have close communication or close association with these people. We have one of our own City Commissioners serving on the water and sewer board.

Well, certainly we discussed water and sewer board problems and we have these people serving on the housing board and we discuss problems as they relate to the community.

THE COURT:

Now, it seems most of these boards are -- many of them rather are established for a specific purpose and, after that purpose is accomplished, some of them become dormant. I am not sure about the Mobile Housing Board. Are these members salaried members who function day to day or is this an advisory board that just advises the Mobile Housing Board?

A Your Honor, the Mobile Housing Board is more than an advisory board. It is an operating board.

THE COURT:

First, is it a full time job?

A No. These businessmen are appointed.

THE COURT:

These are advisory people to whom?

A No, sir. These men serve as a board and they give instructions to the director, the executive director, who is a full time man and he has a staff.

THE COURT:

That is what I wanted to know.

A But this is a very responsible group of people and they handle millions of not only local, but federal monies.

THE COURT:

About how often does the board meet?

A I think it meets twice monthly, your Honor, and then on call as needed.

THE COURT:

Some function -- I realize the comparison is not exact, but something like a board of directors of a business institution?

A This is correct. If I might add, we have more contact with the executive director than we do actually with the members of the board, because the members of the board set the policies and the executive director then has to carry them out and he communicates quite frequently with all three commissioners and with the board of commissioners.

MR. BLACKSHER:

That is Mr. Jimmy Alexander?

A That is correct.

Q Who, for the record, is white?

A White color or named white?

Q Race.

A Well, Mr. Gray is a black man on the board. The white man.....

THE COURT:

Well, all right. We are going through them and I would like to know something of their -- not a lot, but is he a business man or social worker or government employee, or what?

A All right. Let me take them one at a time, your Honor. Mr. Gray is a black man on the board and he is with the Mobile County Public School system and, if I am not mistaken, he is an assistant principal at Shaw High School.

THE COURT:

All right.

A Mr. Norman Cox is the president of the Patterson Company.

THE COURT:

Is that a lumber company?

A No, sir. Wholesale supplies of some kind, flooring and things such as this.

THE COURT:

All right.

A And then Mr. David Frieland who is president of Mobile Rug and Shade Company.

THE COURT:

All right.

A Then there is Mr. Howard Adair who is the supervisor or superintendent with the South Central Bell Telephone Company.

THE COURT:

All right.

A And then there is a Mr. Gary Ellis who is the owner of a drugstore and he is a pharmacist.

THE COURT:

All right.

MR. BLACKSHER:

Your Honor, I am introducing, as 108, the list that Mr. Mims has just gone through.

THE COURT:

All right.

(Plaintiff's Exhibit 108 was received and marked, in evidence)

MR. BLACKSHER:

By the way, Mr. Mims, Mobile Rug and Shade is owned by either you or your brother; is that correct?



A Absolutely not. I wish it were.

Q You are not connected with it?

A Absolutely not. Mr. Friedlander is the owner of Mobile Rug and Shade Company.

Q All right. In any event, what is your explanation for why there aren't more blacks on this board that affects the lives of so many black citizens of this community?

A I think the black community is represented and it has been represented by Mr. LeFlore, who served on this board and served ably, and as far as I am concerned, the blacks have representation with the white members.

Q So you think they are adequately represented now?

A Yes, because I know that these men that I have appointed to this board are just as interested in the blacks as they are the whites.

Q Now, sir, we will go to item thirty, which is the Mobile Library board which has had two black members out of a total of twenty over the years.

You wouldn't suggest, would you, that black citizens of Mobile are not interested in the public library?

A Not at all.

Q Can you explain why there have been so few blacks appointed to this board?

A Not really. This board is more or less an advisory

board to the commission and in charge of the libraries and the board of commissioners. The personnel who works for the library board is under civil service and I could not tell you why there is a two to fourteen ratio.

We, again, try to appoint people who are interested in this particular phase of our community activity and people who are willing to devote time to it. So, perhaps not too many blacks have shown an interest in it or have come forth and said we would like to have a part in the operation of the library system.

Q Now, I take it that you haven't gone out and actively sought black participation on this board then?

A No. I haven't personally, no.

Q Similarly the next one, item thirty-one, the greater Mobile Mental Health Retardation Board indicates that there are no black members.

You would not suggest, would you, that blacks aren't interested in mental health and retardation in Mobile?

A No, I wouldn't. I wouldn't suggest that at all.

Q Do you have any explanation for why there haven't been any blacks appointed to this board?

A As I indicated yesterday, if I am not mistaken, this is a fairly new board and these members -- and I do not have the list before me, but these people are vitally interested

and have expressed great concern for mental health and retarded children and retarded people. There are some people who are more interested than others and I have found people who have members or people of their family affected in these areas are more apt to press for these needs than others.

Q Well, once again, I will ask you if there have not been some black citizens of this community who have expressed interest in the mental health problems of the community?

A I can't recall any blacks being in any meetings with reference to mental health problems. Now, there may have been. I am not saying there haven't been, but to the best of my recollection, as citizens and we have had a number of groups who have come to City Hall with reference to the mental health program, interested citizens, and to the best of my recollection there have been no blacks among those who come seeking funds or support for mental health.

Q Are you familiar with, Mr. Mims, with the Searcy Hospital Human Rights Committee that was appointed by the Federal Court in Montgomery?

A Just what I have read in the media is all I know about it.

Q You are aware that there are black members on that committee, aren't you?

A I am not aware of the make-up of that committee.

Q I think you said, concerning number thirty-three, the Mobile Planning Commission, that it also is one of the most important commissions of city government; is that correct?

A I would say so, because it has to do with planning and zoning.

Q Do you have any explanation for why there have been no more than two of fifteen blacks on that planning commission?

A No. I know the gentleman who is on there now and the one who was on there prior to this gentleman being on, but I could not tell you why the ratio is one to seven.

Again, this is one of those things where you really are on the hot seat and you have to spend long hours listening to both sides with their arguments and presentations, and it is not easy to get people who will take this pressure, free of charge, to be quite frank with you.

Q Are you suggesting that the presence of one member, one black member on this commission, is an adequate representation of black citizens of this community?

A Well, I would think all seven of these members represent the community adequately, regardless of a person's color, when he comes before the commission for a zoning matter. I think they are represented adequately.

Q Well, let's talk about zoning for a moment.

Can't you agree with me that the white members of the



committee are going to be less familiar with the black residential and business areas of a city?

A No. I cannot agree with that because simply the chairman of this commission, at this time, every week before these matters come before the commission gets with the member of the planning staff at his own expense and on his own time and he visits every one of these sites that is coming before that planning commission the next day or the next week. He goes out into the communities on his own at his own expense and familiarizes himself with these matters that are coming before that commission.

Q Mr. Mims, I said my point was that one can go out and inspect the various sites that are the subject of the attention of the planning commission, but unless one lives in the area one is not going to know what the sentiments of the residents or the people of the community are about how that land is being used; would you agree with that?

A No. I would not agree with that.

Q Well, you have appointed Mr. John L. Blacksher to that commission, have you not, the planning commission?

A Yes.

Q And is that the same Mr. John L. Blacksher about whom we heard complaints earlier that owned a lumber company in the Maysville area that was causing a nuisance?

A Yes.

Q Do you think Mr. Blacksher is familiar with the feelings and sentiments in that area about the way it is zoned and planned?

A I think Mr. Blacksher is, because Mr. Blacksher has met with the citizens of that area when they had a complaint about his company. He went and met with them at one of the local churches right next to his place of business and, as far as I know, Mr. Blacksher, with the exception of the lady who testified here the other day, has good rapport with his neighborhood.

Q Does Mr. Blacksher live in that same neighborhood?

A No. Mr. Blacksher doesn't live there.

Q His address here is Tuthill Lane. Is that in Springhill, the western end of town?

A Yes.

Q Item thirty-four is the policeman, fire fighters pension and relief fund board and has had seven members over the years -- excuse me, has had ten members over the years, seven at present, none of whom has been black.

Now, I agree that there are relatively few, but there are some black policemen and fire fighters; is that correct?

A I think the record will prove that we have black policemen and fire fighters; yes, sir.



Q Is there any reason why none has been appointed to this particular pension and relief fund board?

A Well, I think it was brought out yesterday that most of these members of this particular board are people who are familiar with banking and people who are familiar about financial matters and the whole idea is to try to get as much interest as you can from the money that you have available in the fund so that it will be able to pay the pensions of both black and white people when they retire.

Q My notes indicate, on direct, that you said or Mr. Arendall said that three bankers, one business man, one investment businessman, the fire chief and the police chief?

A I think that is correct.

Q You are not suggesting that there aren't any black business men or bankers?

A Well, I have appointed a black banker or a savings and loans man, a Mr. Davis, to various committees and have used him as an advisor on a number of occasions. I have a high respect for Mr. Davis who is a savings and loan man, but Mr. Davis happens not to be on this particular board.

Q You say Mr. Davis is the only black banker or business man that you know?

A I didn't say that.

Q There are plenty of others?

A I don't know that many black bankers, no, but I know a lot of black businessmen, certainly.

Q You are not suggesting or you wouldn't suggest, would you, that blacks aren't interested in where trees are cut in Mobile?

A Well, let me say this, I don't know of any blacks who have expressed a great deal of opinion about trees. I don't know of any who have expressed a desire to serve on the tree commission.

As far as I am concerned, people have to have a desire to serve. The only reason I am sitting here today as mayor of Mobile and public works commissioner is because I had a sincere desire to serve the people. If I hadn't have had that desire I wouldn't have offered myself to run and I wouldn't have run three times. So, people have to have a desire regardless of their color.

Q Are you inferring that black people in this community just haven't had the desire, get up and go that you have demonstrated?

A I am saying that I do not believe that the black people have expressed the interest in the community that they should have. I will say that emphatically.

Q Item thirty-six is your neighborhood improvement council. It goes around various neighborhoods holding meetings,

encouraging paint up, fix up, clean up.

THE COURT:

What number is that? Mine is stapled together here.

A Thirty-six, your Honor.

THE COURT:

All right.

MR. BLACKSHER:

For example, problems with street lights, chairman of the committee, when he hears a complaint, will write you a memo personally that you can take action on. There have only been six of forty-nine blacks on that council.

Surely black citizens in this community, I think from the testimony, are interested in their neighborhoods. Do you have any explanation for why there are no more blacks than that represented?

A I could not answer that specifically, but it would be interesting to know if some of these blacks who have testified in this Court have been to these neighborhood improvement council meetings and have expressed themselves there. They certainly haven't expressed themselves to me as public works commissioner. In fact, I have met people here in this Court that I have never seen before.

Q Well, let's see, what was this other group, community service meetings that you mentioned along this point, in your

direct testimony, what is the relationship to the neighborhood improvement council?

A Well, the community service meetings that I initiated a number of years ago were primarily for .....

Q No. What is its relationship to the neighborhood improvement council?

A There is no relationship with the exception we are all trying to meet the needs of the community.

Q So you don't go into the neighborhood meetings through the neighborhood improvement council, but you have gone in through these community service meetings?

A This is correct. I have attended neighborhood improvement council meetings in the past, but I don't make it a practice to attend every neighborhood improvement council meeting.

Q You say you have tried to go into all of the communities through these community service meetings?

A Yes.

Q And it is the only way you know of of finding out the needs of the communities?

A Well, let me say this, many of the needs have been brought to the City government's attention, because we have gone into the communities and many of the needs have been met because they were called to our attention at a community service



meeting in a given neighborhood and so, I say without any hesitation, that the community service meetings have been very beneficial to the people of Mobile and they have allowed the establishment of a relationship or rapport between the people and the city government that was sorely needed here.

Q You testified that you have been to meetings in black areas, too?

A Oh, absolutely.

Q Is that what you said in your book, Mr. Mims?

A Well, I think you are referring to some meetings that were held during the height of racial trouble here in our city and I happened to have a copy of the book right here and I can quote you page and chapter where Mr. Outlaw and Mr. Langan, who was revered by the blacks and I went to the Davis Avenue community center and we had ministers and preachers and priests and black leaders from all over the place who booed us and called us all kinds of names and called Mr. Langan, who was supposed to be the great hero for black people, they called him just as many names as they did me and so, in that kind of a situation, at that particular time, we did not go back into any communities during those months when Beasley was marching in the streets and Rap Brown and Stokely Carmichael were making so much noise over the country and we had fire bombings and there were times when I had to have my house

guarded at night because of threats.

We did not go back after we were treated so rudely. Nobody but a crazy person would go back after they treated us like they did. I will be frank with you about that.

Q Well, there were a lot of people that stayed right there, the people that reside on Davis Avenue, right?

A Sir, I don't know.

THE COURT:

I think we are beating a dead horse here. There were black people undoubtedly who stayed and it was a time of racial strife is his point.

MR. BLACKSHER:

You were going to quote page and verse?

A Well, I had heard you were going to call me a racist, because of my book.

THE COURT:

Let's don't get into an argument.

MR. BLACKSHER:

You heard what?

THE COURT:

Let's don't get into an argument. If you want to refer to some page, go ahead.

A Your Honor, I was going to refer to the incident where we went to Davis Avenue and were treated rudely and it is in



my book.

THE COURT:

Did you want him to.....

MR. BLACKSHER:

The name of the book is "For Christ and Country", by Lambert C. Mims and published in 1969; is that right?

A Yes.

Q On page sixty-one -- well, it starts on page sixty and you talk about going into the various communities and one of the first communities we visited we found a disturbing situation. In addition to the people of the neighborhood who came to the meeting there was a large number of outsiders.....

THE COURT:

Mr. Blacksher, I really don't see any reason to that. It is like asking a black person to go to some extremist white meeting at a time of strife. I don't think that will particularly help us.

MR. BLACKSHER:

The book doesn't indicate they are extremists. Let me read from his book.

THE COURT:

The question is, you may offer testimony on what he says was his ensuing conduct and whether it was safe to go back or not. We all know there was a time back in the sixties

of extreme strife in this country and thank goodness it is not expressing itself in those over actions now.

And I think we are getting off into something that is encouraging arguments, so forth and so on.

MR. BLACKSHER:

Well, for whatever impeachment value, I will introduce a copy of this.

THE COURT:

Go ahead, Mr. Blacksher. You may do as you wish.

MR. BLACKSHER:

"Some were from other parts of the City and some were from far away. Most of these were militant blacks, but many were clergymen, protestant ministers, catholic priests and nuns. For nearly three hours these people accused and tried to intimidate their City fathers. Never in my life have I seen such abuse of public officials. We discontinued the neighborhood meetings.

Recently I was asked, during a television news conference, whether we were going to resume these meetings. I made the statement that I do not intend to go back to a meeting like that, again. To be abused and harrassed by militant irresponsibles whose aim, as far as some of us could determine, is simply to disrupt the whole City. I do not believe that the people who elected us to the City Commission

would endure this kind of thing and neither will we."

And by the people that elected you, Mr. Mims, I take it you were talking about the people in the suburbs?

A Well, I am talking about the City electorate, as a whole. I don't think any sane person, as I said a moment ago would go back and willingly present himself for this kind of persecution and this kind of ridicule.

These paragraphs you have read, or this paragraph you are lifting out of this book that has many, many paragraphs that are all together different from this that talks about the harmony that we have and all the good we are doing in the community. You are lifting from this book, for Christ and Country, which has a lot of good things in it. You are lifting this out of context. This did not mean .....

THE COURT:

I hate to keep pursuing it. I want to make a record.

We recognized that Lyndon Johnson had to limit his visitations during those periods of strife and, for a period of time, according to the news reports, his main appearances were at military bases and so forth. Let's get on to something more productive, gentlemen.

Q Well, let's talk about plumbers, Mr. Mims. Item thirty-seven, Plumber's Examining Board. No blacks have ever

been appointed to that board.

Can you explain why?

A According to the, as I understand it, ordinance, the people on this board would be people who know something about plumbing. For instance, I would not be very good on this board because I don't know much about plumbing.

So, as I understand it, these people on this board examine applicants for plumbers' licenses and so we have appointed, in accordance with the ordinance. I do not personally know of a black master plumber in the City of Mobile. Now, there may be some. I do now know personally a black master plumber, for instance.

Q What about the recreation advisory board, item thirty-eight. There is one black person out of twenty-two?

A Hasn't that board already served its time and isn't it now non-existent?

Q My notes indicate that it was proposed by Mr. Bailey. They were not reappointed in 1974 and that Mr. Bailey recommended all the names and you want Mr. Bailey to take all of the responsibility for it; is that it?

A Well, sir, I don't recall having made one appointment to this board, personally. I concurred with Mr. Bailey's recommendations at the time, I am sure, but I don't recall personally making one of these appointments and I couldn't



tell you, to save my life, who was on it.

Q Well, you certainly will agree, wouldn't you, that there are many more blacks than indicated by this representation that are indicated in recreation in the City?

A I certainly do. The black people certainly utilize the recreational facilities as much as anyone else in the community, but this is something Mr. Bailey brought up. What reason he wanted it for, I really do not know, and I could not recall. I am sure I concurred in it. I don't know whether the records shows I voted for it or not. It takes two to make a majority on a three man team.

Q South Alabama Regional Planning Commission, item number thirty-nine. This commission has the same members, the same terms as the Mobile Planning Commission; is that correct?

A This is right.

Q The Board of Water and Sewer Commissioners, item forty. One black out of twelve over the years.

Can you explain why there haven't been any more blacks on that board, Mr. Mims?

A Well, I think the blacks and the whites have sufficient representation. As I said yesterday I have made one appointment to that board, Mr. Moore, and somehow it was worked around where he was the only one I can lay claim to,

because of deaths and because of vacancies and other commissioners would feel that this was their appointment and they have, therefore, replaced these people as they vacated the position and I can claim only Mr. Moore, who served as chairman, and I think does a fantastic job as chairman.

MR. ARENDALL:

Mr. Blacksher I will call your attention that you remember that Bishop Phillips was formerly a member of that board.

MR. BLACKSHER:

Two blacks out of twelve.

MR. ARENDALL:

Yes.

THE COURT:

So that should be one over in the prior black members column?

MR. BLACKSHER:

All right. Mr. Mims, skip down to item forty-six, educational board. I understand your direct testimony to say that this was a board furthering the employees' education. I presume you mean the employees of the City of Mobile?

A As I understand this board, there are so many boards here that this could be some other board to get funds for someone. I do not know, but as I understand it, this is



the board whereby City employees are screened, those who want to further their education, and who are seeking City funds for their tuition.

Q And this board is made up of department heads of the City of Mobile?

A As I understand it. I do not have that list before me.

Q And one member elected at large?

A If that is what the ordinance says.

Q Or appointed from among the citizenary, I should say?

A Yes.

Q I guess that explains why there is no blacks on that board since there are no black department heads?

A You said it. Is that a question?

THE COURT:

Mr. Blacksher, let me see if I can get the thrust of your questioning. Let's see what your contentions are.

Is it your contention that there should be a pro-rata membership on the boards of whites and blacks or what is your contention?

MR. BLACKSHER:

Your Honor, our contention is that responsiveness in the contexts of the voting rights cases has to do with the

access of particular segments of the community to participation in the government.

THE COURT:

I asked you a question. Do you contend that must be on a quota basis?

MR. BLACKSHER:

Absolutely not. I do not contend, over a large number of boards or a large -- there has to be weight given to the fact that blacks are present.

THE COURT:

Let me make this observation. I cannot address myself, in the opinion, too many details. On such things as air conditioning boards, architectural review boards, electrical examiners, plumbing examining boards -- and I note that counsel for Plaintiffs are all whites. In Title 7 cases, and I think I should take somewhat judicial knowledge of evidence that has come to the Court on these matters that statistics have been offered to show that in skilled places, and we know somewhat, for instance about lawyers, that there is a marked lack of blacks who are attorneys and a marked lack of blacks who are in skilled positions.

Now, that may address itself to the whole structure of how it came about, but I don't think it addresses itself to people placed on a certain number of these boards. I only

speak with reference to those, though, that call for some special talent in placing people on boards. I think we have to be cognizant of where there are special talents that there must be some pool from which they can reasonably be drawn. I will give you an opportunity to say anything about those remarks that you desire.

MR. BLACKSHER:

All I would say, your Honor, is that in every case there has been no evidence that there are not blacks nevertheless available for these occupations. The point of fact is most of these boards where some special skill is required, the City Commission adopts the recommendations made by private industry.

THE COURT:

Wouldn't the same thing apply to you? There are some skilled black lawyers. Why aren't they here at your table?

MR. BLACKSHER:

I don't know how to answer that.

THE COURT:

They very seldom appear in these cases. You are the lead counsel in this case, and, in most of these cases you are lead counsel. Why there may be some, you have to look at it overall and then we run into a very difficult area. Like I

say there may be, so far as the structure and how these things came about, that is one thing, but I don't think those things address itself to this Court in this case.

MR. BLACKSHER:

Well, another point we would make, your Honor, in a situation where the entire citizenary has to depend on these particular boards and agencies for their livelihood.

THE COURT:

I am not talking about the other boards. These that require special skills are those to which I refer.

MR. BLACKSHER:

Yes. Those boards pass on applications for things like licenses and permits.

THE COURT:

Well, would you contend that you should put a person who has no knowledge in that position just because they are black or would you fly in an airplane with a pilot because he was black and not qualified?

MR. BLACKSHER:

I would say, in the light of testimony of Mr. Randolph, with respect to difficulties for blacks getting permits to be plumbers where there are qualified black plumbers or electricians, a responsive government would make some effort to see that they are represented on these boards.



MR. ARENDALL:

If your Honor please, I don't recall any testimony being given as to mistreatment by any of these boards.

THE COURT:

Go ahead. I will let you gentlemen make further statements. Like I say, this is my only forum to make such comments and make my views known. It is impossible to go into details on any decree, whichever way the case goes, one way or- the other.

MR. BLACKSHER:

Mr. Mims, I would like to talk about your testimony concerning the master drainage project. You say that began in 1972 and was approved or what?

A If my memory serves me correctly, it was presented by the public works commissioner to the board of commissioners in 1972 and was improved and we began to try to program funds for this massive drainage program.

Q What is it going to accomplish?

A Well, it is going to alleviate flooding and correct erosion problems in many areas of the city.

Q What work is being done, now? Is it all being done by engineers somewhere in an office?

A Well, Mr. Blacksher, I would like for you to get in a car with me and I will drive you over the City.

THE COURT:

No, let's don't engage in that kind of answer.

A Well, we completed one not too long ago in Toulminville. We have one underway in one of your law firms' communities at Laurel and Devitt. We have a saltwater branch off of Dauphin Island Parkway. We have completed a two million dollar project called the Southern Drain in the southern part of the City here.

I have a list of projects that are being built now. I usually carry a list in my pocket so I will know where people are working and big stickney, for instance, has been underway and that is the one I just referred to, Saltwater Branch.

Here is community development project and here is one in the Texas Street area. The Zeigler Boulevard culvert. We just awarded a contract this morning at seven-thirty, incidentally, when we met for conference. Alba Club Road, Arnold Road -- they are all over the city. Icehouse Branch, Claridge Road, Bolton Branch, Broad Street widening and drainage project.

Q Is this master plan spelled out in one document somewhere?

A Yes. We have a brochure or folder or master drainage program. We have some projects that are being done on master



drainage and some projects being done under capital projects and capital improvement funds and under the community development funds. So, we have four major funds that we are talking about, plus we do a lot of drainage work out of the operating budget through the regular public works forces.

Q What about the Three Mile Creek drainage project, Mr. Mims? What is happening on that?

A Well, I testified earlier that we had met with the Corp of Engineers and because the Three Mile Creek runs into Mobile River and that is part of the Tennessee-Tombigbee system, we are going to be able to get assistance from the Corp of Engineers and from the Federal government in the improvement of this major stream that runs all the way across the city from the western city limits all the way to the eastern city limits, you might say, or to the Mobile River. This is a major drainage system and it will be improved and is being improved. We have dredged it on a number of occasions and we have a regular maintenance program of Three Mile Creek and we plan to make other improvements as we receive the recommendations from the Corp of Engineers.

THE COURT:

All right. Let's take a fifteen minute break.

(RECESS)

THE COURT:

All right. You may proceed.

MR. BLACKSHER:

Before we get back to drainage, Mr. Mims, I wanted to say, for the record, that with reference to the remarks you said earlier -- I mean, this sincerely, I am not trying to make you out a racist. I think the Court understands what we are trying to show, what the Plaintiffs are trying to establish, that white people who live in a different culture from black people who live in different neighborhoods have difficulty relating and responding to problems of black people and that is all I am trying to demonstrate and I wanted to make sure you understood that.

THE COURT:

Let me make these remarks in relation to what I said about the boards and what census figures show about black skilled workers. I do not mean for the City Commissioners to take from that, that they don't have any duty. The courts frequently required affirmative action to recruit black people. So there won't be any misunderstanding, I was just probing the Plaintiff's position and then there were some remarks that I indicated that I wanted to make, because this is my only forum. Go ahead.

MR. BLACKSHER:

We were talking about the master drainage project. I wanted to ask you, particularly, about the Three Mile Creek drainage project, Mr. Mims.

You said there were three water sheds in Mobile; Three Mile Creek, Dog River and one other, right?

A The Mobile River.

Q What is going to happen -- what kind of work are you going to do to make the Three Mile drainage project an adequate drainage service for the community it serves like I saw it starts over in west Mobile. The complaints we have heard to date have been from Trinity Gardens, Crichton, right down on Davis Avenue where the Roger Williams project are all frequently flooded and what other areas?

THE COURT:

Just one moment. Did I leave something out that you wanted to comment on?

A Well, let me say this. The area that has complained the most is in the vicinity of Stanton Road and Tonlours and Shadowgay area. They have had more flooding and more complaints in this area than any other area along Three Mile Creek since I have been in office.

I know, for a fact, that water has gotten up into houses along the area of Shadowgay, which is just off of Stanton Road.

Q Is that a white community, Shadowgay?

A Yes.

Q Tonlours is a changing community?

A It has changed, is my understanding.

Q It is now a majority black?

A It is now changing. I don't know what the percentage would be. As I indicated earlier, this is a major watershed or drainage easement and a great portion of the water that falls in the City of Mobile, sooner or later, comes out of Three Mile Creek up here on Three Mile Creek north of the docks. The Corp of Engineers, in their study, will present evidence as to certain culverts that need to be replaced or certain bridges that need to be replaced that might be causing an obstruction, things such as this.

It is very doubtful that the Corp of Engineers would ever recommend that Three Mile Creek be paved from one end to the other. You know, there is just some things you don't do. We have had recommendations from some citizens, both white and black that we, you know, pave Three Mile Creek or put it under ground or put it in a culvert and things such as this that are absolutely not feasible. So, we are saying that when the Corp of Engineers presents its recommendations to the City and hopefully, at that time, we will get some Federal funding, because the Corp is involved and then we can make the



improvements that would be necessary to provide good drainage. It will not necessarily mean it will be a paved improvement or a covered improvement or some exotic looking drainage system. It may still be a hundred years from now an open creek. The idea is to provide drainage to keep areas from flooding.

Q Do I understand that you, at the present time, do not know for sure what you are going to do about the overall Three Mile Creek drainage project. You are still waiting on something from the Corp?

A As far as Three Mile Creek itself is concerned, we are making improvements to various tributaries going into Three Mile Creek like the big Stickney, the little Stickney, the Trinity Gardens Drainage, much of it will go into Three Mile Creek.

Q What are you doing in Trinity Gardens right now?

A That is included in the community development monies that will be, I am sure, presented later in this trial by some of our staff people. The whole program will be presented, but we have plans to try to drain Trinity Gardens. So we can get on with the paving of the streets like we wanted to do these low many years.

Q Those are still in the planning stage, the drainage projects for Trinity Gardens?

A Well, I consider anything in the planning stage until you start turning the earth. But we do have definite plans and, as I said, these will be presented by technical people and members of our staff later on in this trial, I am sure.

Q Can you give the residents of Trinity Gardens and Crichton some word about when the drainage problems will be solved for their neighborhood or will be improved?

A Well, of course, we have been in the process of making improvements all along. All improvements are not necessarily from capital expenditures. Many improvements are made from a maintenance standpoint and we have, from time to time, made corrections here and yonder with our local public works crews. For someone to say that we have not improved the drainage in Crichton and Trinity Gardens I think would be a misstatement. It has been improved.

The first time I went to Trinity Gardens you almost had to fly over the area, to be frank with you. It is so low. We have made improvements.

We have not reached utopia there, but we do have definite concrete plans and hopefully some of this work will be put under contract in the very near future.

As I said, I do not have the community development program before me. Neither do I have the master drainage



program, but all of this has been programmed.

Q Will the community development program that will have a time table in it that will answer my question?

A Yes. With appropriate maps and everything.

Q Have you calculated and will we be presented evidence on how much money has been spent by the City of Mobile on the Three Mile Creek drainage project and the other drainage projects.

MR. ARENDALL:

Mr. Blacksher, the answer to that question is that we have never asked anybody to compile an itemization of expenditures related directly to Three Mile Creek, but we will have the staff people to give you the details about what is projected for it.

MR. BLACKSHER:

The reason I asked Mr. Mims, of course, is the little we have to go on -- this October, 1973 newspaper article that indicates that the public works department, which is your area, was allocated some eight hundred and ninety-eight thousand dollars for Three Mile Creek area drainage programs; four hundred and sixty-two thousand dollars for downtown area drainage program and some nine hundred and forty-nine thousand for the Dog River area drainage program.

It is things like this that have given rise to the

question, in our minds, about where most of the money is being spent. Do you see the Dog River project or the Dog River drainage problems as being more difficult to solve or warranting more expenditures of money than the Three Mile Creek project?

A Well, the reason that some of these projects moved ahead faster than others was because some of the plans were more complete, at that time. Now, I don't have that article in front of me, but we run into all kinds of problems as you start planning and designing, not only drainage projects, but road projects or anything else.

You run into rights-of-way problems. You run into things that sometimes are beyond your control and so if you have "x" number of millions of dollars allocated for each year's program you go ahead with the projects as you have, you might say on the shelf, the design and everything you have on the shelf, and you go ahead with it.

Now, in that particular instance, apparently the plans by the Volkert Company, now, they handle the Dog River drainage easement or watershed. Apparently those plans were ready to roll and so we proceeded. That does not mean that the Three Mile Creek watershed is taking any lesser priority. It may mean that converses, who is the engineer on that watershed, may not have had their plans ready or there might have been easement problems.

We find a lot of people are quick to complain, but when you go out to try to get an inch of their land to get the improvements on and then you have to take them to Court, too.

Q Have you been to Court over the Three Mile drainage project?

A I cannot say specifically, but I do know on many, many of these projects we have problems after we have worked hard to try to get the money allocated and after we have the plans prepared and after we have the light on green and ready to go and then we run head in to property owners who do not want to co-operate, as far as the right-of-way is concerned. That is a problem not only in black areas, but in white areas in every area of the community.

Q You don't know whether they have more problems with that in the Three Mile Creek area than the Dog River area?

A No. I can't answer that.

Q Do you know specifically why the Dog River plans were advanced more quickly than the Three Mile Creek plans?

A I just tried to explain that. We have three engineers, Converse on Three Mile Creek, Pollyengineering on the downtown river system and David Volkert and Associates on the Dog River project or system and all three of these engineering companies are studying their watersheds and their

prepared plans on these various projects related to those watersheds and some plans are more advanced than others. So, that is the best I can answer that question.

THE COURT:

I take it your answer to be the Dog River plans were developed earlier than the Three Mile Creek plans?

A I would say so, your Honor.

THE COURT:

All right.

A Let me say, for the record, if I may, that there certainly has been no reason on the part of the public works commissioner or the city commission to hold back on Three Mile Creek watershed, because it does affect a huge area of our city and it is our desire to try to get all of these projects done as quickly as possible.

I wish that I could snap my finger and do all of them between now and the first day of August, but it is just a lot of work involved as our people will try to show you, I am sure.

MR. BLACKSHER:

While we were talking about Trinity Gardens in the direct testimony, you recall the point being made that a million dollars being spent in the Trinity Garden area and twenty-seven thousand dollars in collected taxes and I want



to clarify this point, however. Do property taxes provide a very large share of the City of Mobile revenue income from its citizens?

A Not necessarily, no.

Q In fact, most of the revenues of the City of Mobile comes from other kinds of taxes; isn't that correct?

A Well, sales tax would be our main source of revenue.

Q And, of course, there is no way for you to know how much of that was attributed by residents of Trinity Gardens?

A Well, I don't think anyone, even the best of experts, could tell you exactly how much money came out of Trinity Gardens.

Q I agree with that. With respect to street paving, now, we have these -- this information that was turned over to us by your people, a Mr. Chapman, which is Exhibit 74 and which we have summarized in Exhibit 75 and when we introduced it, Mr. Arendall made the point that a number of some of the streets are paved by private developers and I think you re-affirmed that on your direct testimony.

Have you sorted out the number or miles of streets that were paved by private developers as opposed to by those that were paved by the City of Mobile?

A No. I have not and I have not seen your Exhibit.

MR. ARENDALL:

Mr. Blacksher, we expect to put Mr. Summerall on who knows whatever there is to know about that. He is the paving man.

MR. BLACKSHER:

You did testify about resurfacing, Mr. Mims, didn't you? I think you said resurfacing is not assessed to the property owners?

A Resurfacing is out of the general fund budget.

Q This Exhibit by Mr. Chapman says, at the bottom, that the information contained herein includes the miles of gutters, paving and also includes resurfacing of streets that was done by the city both before and after 1970, but you are not familiar with this Exhibit and you haven't apprised yourself of exactly how many miles have been developed, repaved or resurfaced in the various neighborhoods?

A Well, I am not familiar with your Exhibit. I say emphatically we do not charge for resurfacing.

Now, on a street like Lincoln Street, which was a hard surfaced paved street, in my opinion, testimony previous in this Court indicated that that person did not think it was paved, but it was paved, as far as I am concerned.

Now, we are going out and tearing up a paved street and we are putting down underground drainage and curb and



gutters and that is an assessment program. If we go down St. Joseph here on Dauphin Street or Gill Road or Dogwood Lane or whatever it might be, we resurface the street at no cost whatsoever to the property owners. It comes out of the general fund, our operating budget of the City of Mobile or capital outlay from the capital budget for the purpose of re-surfacing. There is no assessment.

I don't know what Mr. Chapman has said there. I haven't seen that. If he said we are charging for re-surfacing he is in error.

Q Why couldn't you re-surface the Lincoln Street?

A Well, sir, I have tried to say all the time that Lincoln Street was a surfaced street. It had a hard surface. It was a paved street and .....

Q I am asking if it was paved why couldn't you just re-surface it?

A Because there were a drainage problem. This was a complaint that people had built down on the lower side of the street and I am very familiar with Lincoln Street. I have been there many times. On the north side of the street the houses were built in many cases lower than the crown of the paved Lincoln Street. Therefore, the water would go off of Lincoln Street down into the yards and under the houses and, in one case, the person who was complaining had

a big long limousine type of an automobile and we suggested we put a curb up there or berm to keep the water from going into his yard and that would affect him from getting in and out of his driveway. When they came to the place where they were willing to pay part of the construction costs of what you might say is a new street and that is what is going to be when they finish, then we proceeded with the project. So, I am sure, over a period of years, Lincoln Street was re-surfaced.

In fact, I am positive that Lincoln had a new surface put on it, from time to time, over the years.

Q Concerning this assessment question, how is it that you know until recently the residents weren't willing to bear the assessment?

A Well, sir, I had met with a Reverend Smith on many occasions. In fact, in 1963, prior to my first election, I sat on Reverend Smith's porch and also he has indicated to the contrary, but I promised him I would look into it and I did look into it and I had looked into it a number of times and had talked to Reverend Smith on a number of occasions and .....

Q And Reverend Smith told you that people would not bear the assessment?

A Reverend Smith, to the best of my recollection, forever

made demands. Number one, that he was a taxpayer, which I understood quite well; and, number two, the City ought to come out there and do something about his problem and my contention was that we ought to be doing something about the dirt streets and the unimproved areas of the city first and then, as money and resources were available and as people wanted to participate, then try to correct some of these other problems of long standing and so it was not until about a year ago or whatever dates the documents show that they agreed to pay an assessment on Lincoln Street and it was, at that time, that the City Commission moved forward with the project taking two-thirds of the money out of the City treasury and one-third of the money will come back from the project. Over a ten year period, we will get one-third of it back from the property owners.

It was not until they expressed a desire to share in the cost of it that we went ahead with the project.

Q So the answer to my question was no?

A Well, I don't know what the question was now.

MR. BLACKSHER:

Would you read it back?

THE COURT:

He wanted to know back in the beginning whether or not he refutes or the property owners refused to be assessed.

A Your Honor, they did not indicate that they would be willing to pay.

THE COURT:

Did they indicate that they wouldn't?

A That they would not pay?

THE COURT:

Yes.

A They did not indicate that they would pay. It was more a demand that we come out and do something, because he was a taxpayer and the most vocal one was Reverend Smith.

THE COURT:

In those discussions, did you inform them of the necessity of property assessments?

A I could not say, under oath, your Honor, that look you are going to have pay so much a foot, but it was understood that everyone paid an assessment on street improvements. I am sure that was during our comments.

THE COURT:

When you say everybody understood, is that a matter of common knowledge or from your discussions, he could not fail to understand it?

A I think from our discussions he couldn't fail to understand it. Somebody had to pay for it.



THE COURT:

No, no. Somebody having to pay it and whether a citizen has to pay it are two different things. Did you tell him there was a property assessment?

A Your Honor, I couldn't specifically say that I told him he had to pay so much. I thought it was specifically understood that everybody had to pay.

THE COURT:

Go ahead, Mr. Blacksher.

MR. BLACKSHER:

Mr. Mims, would you agree that black citizens in Mobile do have particular rised interests peculiar to them?

A No. I could not say that they have particularized interests. The whole community has interests.

Q Well, since you have your book, for Christ and Country before you, the kind of thing I am talking about is discussed on pages sixty-seven and sixty-eight. I would like to read these sections, if the Court will permit.

THE COURT:

Go ahead.

MR. BLACKSHER:

"We can no longer live in the days of our forefathers. Negroes no longer live down the lane and pick cotton. The black man has been thrust into society. It matters not whether

we like this fact. There is no escape. This problem must be faced."

Then over on the next page -- I am skipping, but you can fill me in any time you feel like there is something you want heard. "Reasonable white men must also realize the predicament of the blacks. Since the 1954 Civil Rights decision, the American negroe has made much progress, and many white men have changed their attitudes toward the race issue. However, many thousands of negroes find themselves totally unprepared to assume their places of responsibilities in society.

Reasonable white men must realize that the negroe needs training and education, and that in many cases he needs to be advanced culturally. Reasonable white men must patiently go through this period of adjustment."

That is the kind of thing I am talking about Mr. Mims. Don't you agree that those kind of interests are particular to black citizens of Mobile?

A Well, I think the whole community has needs and what I was trying to do in this chapter of my book was to show that reasonable white men and reasonable black men and reasonable Americans could work out the problems that we have and of course, you have to take into consideration that this book was published in the fall of 1969 right on the heels of



all of the racial trouble that we had had in this country.

Q Well, now, concerning reasonable men, and let me ask you, your views on this part at the bottom of page sixty-eight, will you say that the "negroes also must be reasonable. They will have to realize that the events of a hundred years cannot be changed in the snap of a finger. The militant negroes want everything now. This is impossible. The businessman starts small and grows. The farmer plants a seed and cultivates before he gets a harvest. And it is my firm conviction that the shouts and demands of the negro that the position of the negro race as a whole be changed now, will never get the job done. If those who shout "now" would spend half their energy trying to help the negro advance, they would accomplish far more."

Do you still feel that way about the so called negro problem?

A No, because you have a period of what, seven years now, of basically harmony among the races in our community and, at that time, as I said a moment ago, this was right on the heels of the marches, right at the time where there was a group, incidentally, called NOW when there were burnings and there were threatenings and all kinds of things going on and turmoil in the community and people were demanding and shouting and marching on City Hall and marching on the city auditorium

and had demonstrations in the streets. What I am trying to point out in this particular chapter of this book that was published in 1969 was that reasonable white men and reasonable black men are going to have to sit down and white men are going to have to realize that there is a responsibility at hand and the black people are going to have to realize that they have responsibility also.

So, my main point here was to prove as reasonable people sat down they could work these things out. Of course, there are other things that you skipped over. You skipped over sections of this chapter that -- all of it is very meaningful. For instance, you can read some of the things. I will not go into it.

Q Let me ask you one more question on this what is reasonable. I would like to read you a statement made by a prominent black politician and ask you if this is reasonable.

"The wisest among my race understand that the agitation of questions of social equality is the extreme folly, and that progress in the enjoyment of all the privileges that will come to us must be the result of severe and constant struggle rather than of artificial forcing. It is important and right that all privileges of the law be ours, but it is vastly more important that we be prepared for the exercises of these privileges. The opportunity to earn a

dollar in a factory just now is worth infinitely more than the opportunity to spend a dollar in an opera house."

Would you say that is a reasonable attitude for a black politician to take?

A I would say that is reasonable. I would have to digest that sentence by sentence.

Q Let me point out that this statement was made by Booker T. Washington, September 18, 1895 at the Atlanta Cotton States and International Exposition and, of course, what I have reference to is that your point about the things that can't be changed in a snap of a finger, that occurred over a hundred years ago. That was four generations ago, Mr. Mims.

A Well, sir. I can't help what my father did or what my grandfather did. In 1965 I saw a great need in this community for some leadership and I was very happy in business, but I saw a great need for service and I offered myself as a candidate for the Mobile City Commission and for eleven years my sincere desire has been to meet the needs of this entire community, both black and white, and I have devoted eleven years of my life to this task and the record is there and you can search it from 1965 on, on October 4th, until this day, and if you would be reasonable you would say that Lambert Mims has tried to meet the needs of this community.

Q Let me ask you, then, sir, the same question I asked Commissioner Doyle about City ordinances for fair or equal employment opportunity, for open housing, for public accomadation, and the cross burnings legislation. Would you be in favor of city ordinances on those issues?

A Well, on some of those matters they are covered by federal laws and regulations that would supersede anything we do anyway. So, it would be a waste of time and effort and paper for the city to pass an ordinance about open housing. I think people should live wherever their economic situation will permit them to live.

If you can afford a forty thousand dollar home you ought to be able to buy a forty thousand dollar home wherever it is. If you can't afford but a twenty thousand, well, a lot of people can't afford but a twenty thousand. I am not opposed to people living where their economic situation will allow them to live.

I see no need for a city ordinance for that. I think, as an American citizen, you have that right.

On the cross burnings, I deplore cross burnings. I do not condone that in any shape, form or fashion. I brought the two reverands who wrote me, Reverand Stokes and McCree and sent copies to everybody and his brother and said silence might mean that you condone or something like this. I wrote



those bretheren back -- and I think Mr. Arendall has a copy of a letter and told them, "You men know me better than to say that I condone such things as this." What a person does on his personal property, as long as he complies with the Board of Health regulations and the fire codes and what not, I don't think I ought to get involved in telling him what he is doing on his property. If he wanted to fly a red flag on his property, then that is his business.

Now, I would have no reason to oppose an ordinance that would make it a fine or make it an offense against the city to burn a cross on public property, on the right-of-ways. I imagine that that would be already included in one of our ordinances. If it is not, I certainly would not oppose an ordinance that would make that an offense against the city.

Q Are you going to investigate whether or not it is already on the books? If not, are you going to propose such an ordinance?

A I would be happy to propose such an ordinance. I, you know, have not had reason, up to this point, to pursue it, but I think it should be an offense against the city to burn anything on the City's right-of-way, crosses, boxes or trash. In fact, I wish some people would quit burning their trash in the curbs or gutters. Some people burn that and push it

into the storm drains and that helps with our drainage problems.

Q Just a couple of other points, Mr. Mims.

One last point about something you said in your book. You mentioned, I think, in there that it cost you thirty-five thousand dollars in your first campaign for City Commission. I think that is on page seventeen. That was the first indication I have had of firm evidence in support of what has already been said here about what it might cost to run a City Commission campaign?

A Well, I believe I said we actually spent more than thirty-five thousand dollars and although this was a lot of money for a political novice to raise, it was probably a small amount as to probably what some people were spending. In fact, the opposition, at that time, perhaps spent .....

Q Nineteen sixty-five?

A Yes. The opposition, perhaps, spent far more than that, because an incumbent was running and so was the chairman of the Democratic committee, at that time, and so was the son of a former mayor who was a well known man and here I am a farm boy from Monroe County came down to Mobile and, you know, and had an opportunity to run for City Commissioner and only in a free country like America could a guy come out of the cotton patch to Mobile and get elected.



It was because of hard work and shoe leather and getting people to help you and then getting people to help you I was able to beat all of the odds, according to all of the political prognosticators. You know, this guy, Lambert Mims, who is he? I had God on my side. I feel he led me into the field of politics and I feel he put me where I am today.

Q Yes, sir. So you would say, at the present time, it would probably cost more than thirty-five thousand dollars to run a successful campaign on the City Commission?

A I wouldn't be surprised what with advertising and media costs that it would be far more than that.

Q Mr. Mims, isn't it true that you are responsible for Senator Perloff blocking this Roberts bill that would change the form of government?

A That has been rumoured in the media, but that is not true.

Q You haven't spoken to Meyer Mitchell about it, have you?

A I speak to Meyer Mitchell about many things, but I have not spoken to Mr. Perloff about it.

Q I asked you if you had spoken to Mr. Mitchell about this bill?

A Mr. Mitchell and I have discussed the form of govern-

ment in Mobile on many occasions. In fact, Mr. Mitchell is a very strong proponent of the commission form of government. He operates in many cities and he says this is the strongest form of government.

Q You are also a strong proponent of the commission form of government?

A I believe with all of my soul it is the most responsive form of government that the people of Mobile could have. I do not know how any mayor, any nine councilmen or nine commissioners or nine aldermen could be any more responsive than this City Commission is being, at this time.

My policy is to try to treat everybody with a courteous reply and to move with a quick response and to have a thorough follow through and I attribute that to my success and the fact that I have been re-elected three times to this office that I am privileged to hold.

I think we are responsive and some of these people that have testified in this trial that they wanted this and they needed that and, so help me, many of these people have never crossed my threshold into the office of the public works commissioner of this city.

Q Mr. Mims, do you disagree with the other people that have testified that, in their opinion, that a black person could not be elected in a city wide race for the City

Commission?

A I don't necessarily subscribe to those feelings. People said a country boy from Monroe County couldn't get elected to the Mobile City Commission because of the nature of the politics in Mobile, but we proved them wrong. I think a person who is qualified, number one, a person who is willing and a person who is willing to put forth an effort, the effort it takes and a number of things to win an election. It takes a willing hard working candidate and he must be qualified and it takes people to help.

You can't do it by yourself and it takes some money and you have to go out here and not be bashful and ask people to contribute to your campaign.

Q Are you saying all things being equal that a black candidate would have as much chance to win, at large, as a white candidate?

A I think the right black candidate that would present himself as an American citizen qualified to hold whatever office he is seeking would have a chance to be elected in Mobile, Alabama.

Q My question was, the same chance as an equally qualified white candidate?

A Well, yes. I think a black person who presented himself as a businessman or as a qualified person who got

out and worked and sold himself on the fact that he was qualified, I believe he would stand a chance of getting elected to any office if he presented himself or herself, not as a colored person, not as a black person, not against white people, not for white people, but to go out and present themselves on the fact that they are qualified and they were sincerely interested in serving this community. That is what the people want, somebody sincerely interested, not who is the whitest or I am the blackest or I am the richest or the poorest. They want somebody who is dedicated or sincere in their efforts.

Q Can you point to any evidence that would support this opinion you are expressing and, I take it you are saying that the black candidate would have as good a chance as a white candidate, all other things being equal?

A I am saying that there are some black people in this community who could run for any office and stand as good a chance of being elected as I stood in 1965 when I ran for office the first time, probably better.

Q What evidence do you have to support that opinion?

THE COURT:

Why don't we go onto something else?

MR. BLACKSHER:

Yes, sir. So, you are not in favor of City government



being elected out of single member districts?

A I stated that I was a firm believer that the Mobile City Commission or the Commission form of government for now sixty-five years has responded and is responding more and has responded more in the last decade than ever before to the needs of this community and the record proves it.

MR. BLACKSHER:

I have no further questions, your Honor.

THE COURT:

Mr. Arendall?

REDIRECT EXAMINATION

BY MR. ARENDALL:

Q Mr. Mims, may we have your book that there has been so much talk about? I think we had better offer it all in evidence.

MR. BLACKSHER:

I didn't offer mine, your Honor. It was Mr. Manefee's and he wouldn't let me offer it.

MR. ARENDALL:

I offer, in evidence, for Christ and Country.

THE COURT:

Thank goodness it is a little book.

(Defendant's Exhibit number 86 received and marked, in evidence)

MR. ARENDALL:

Q Mr. Mims, I overlooked asking you on direct examination about a couple of things that I would like to ask you about very briefly.

Would you state generally what the current policy of the City of Mobile is with reference to garbage collection?

A We collect refuse. We call it our solid waste collection division. That division collects refuse from about seventy thousand residences, twice per week, and we furnish trash pick up with another division once a week.

Q Is that policy applied equally over both white and black areas?

A Absolutely.

Q What is the City's policy with reference to street cleaning?

A Our city is divided into -- if I am not mistaken, about fourteen different areas and we have a street sweeper assigned to each area and the streets in those particular areas are swept on a regular basis.

Each piece of equipment and each operator has an area assigned and these areas are assigned without regard to race or color or community or any other thing.



Q All right. Now, we have had an awfully lot of talk about commissions, boards and so forth. For about ten minutes, I would like to ask you a few more questions.

THE COURT:

If you will give the number when you refer to a board.

MR. ARENDALL:

Judge, I propose, in an effort to save time, to go ahead and introduce such material as we have on each of these boards and commissions as to which Mr. Blacksher has asked any questions. I don't know any better way to do it.

What basically we have, as to each, is a statement of members and a copy of the applicable ordinance and I don't propose to ask any questions about most of these. But they have not been marked, because we had not contemplated that it might be desirable to put them in. I suppose the best thing for me to do .....

THE COURT:

I really think it would be helpful to make it part of the Exhibit 64 and then it will be altogether and can be considered together.

MR. BLACKSHER:

I certainly have no objection, your Honor. It was just a huge volume of material.

THE COURT:

Let's make it part of Plaintiff's 64.

MR. ARENDALL:

May I ask a few questions and then give them to Mr. O'Connor?

THE COURT:

Surely.

MR. ARENDALL:

Now, I have not got, in this bundle of them, I have only selected those that I understood Mr. Blacksher asked questions about.

THE COURT:

I understood that.

MR. ARENDALL:

Mr. Mims, I notice that on the board of adjustment, one of the members is Dr. R. W. Galliard.

Do you consider him ready, able and willing to speak on behalf of black interests and the N.A.A.C.P.?

A Yes, I do.

Q On the auditorium board, let me run these names out and I wish you would stop me when I get to a black, if you would? Charles Bedsole, William Ladner, Joseph Baker, Robert Brazier.

A He is black.

Q Thomas J. Gango; Mrs. W. L. Russell?

A She is black.

Q John H. Castle; Taylor Hodge?

A He is black.

Q Dr. W. A. Ritchie; Mrs. Shepherd Jerome; Thomas Bryant, Jr.; Richard A. Rowan.

Do you consider the blacks who are on there, such as Mr. Taylor Hodge and others are fully capable of speaking up for the black interests?

MR. BLACKSHER:

Are those presently on the auditorium board?

MR. ARENDALL:

I am told by Mr. Greenough that they are.

The center city development authority is one of the authorities that does not appear to have any blacks on it, but I would like for you to identify, for me, Mr. James VanAntwerp, Jr.? Is he not a member of a family that owns a great deal of downtown real estate?

A He is.

Q Mr. Ken L. Lott is president of the Merchants National Bank, which also owns downtown real estate?

A He is.

Q Who is Mr. Don Henry?

A He is manager of Gayfer's downtown store.

Frank Schmidt; Gerald E. Williamson and Ted Hackney, secretary of the chamber of commerce.

Do you regard each of these gentlemen to be outstanding business men in the city of Mobile?

A All of these men are outstanding business men.

Q All right. Now, until the recent formation of a bank that I believe is called the Commercial Bank -- Commonwealth Bank, a minority black financed and organized institution, was there such a thing as a minority bank in Mobile?

A Not to my knowledge.

Q I will ask you if it is a fact that a white woman is president of that bank?

A Yes. She is.

Q The members or the bankers on this committee are the chief executive officers of the four largest banks in the City, are they not?

A That is correct.

Q There has been some talk here, Mr. Mims, about the library. Does the Mobile Public Library offer its services or facilities to all citizens of whatever color?

A Yes, it does.

Q By virtue of change in housing patterns, as a matter of fact, the main building is now in a black or certainly highly

integrated area, is it not?

MR. BLACKSHER:

I object, your Honor. There is no evidence that it is and I would disagree.

THE COURT:

I will let him give an opinion.

MR. ARENDALL:

Maybe it isn't. I will ask you, do you consider the location in a black or white part of Mobile?

A In my opinion it is a mixed area and predominantly black.

Q Are you familiar with the location of the various branches of the library?

A Yes.

Q Would you identify each and state where each is located and indicate whether the area is predominantly black or white?

A Well, we have a very fine branch in Toulminville that is predominantly black. We have a branch on Davis Avenue that is predominantly black. Dauphin Island Parkway, down in the area where I live, that is about twenty percent black, I would say, at South Brookley. We have a branch in Cottage Hill. Black people live all around the Cottage Hill library.

Q That is a predominantly white area?

A That's right, and there is a branch in Springhill.

Q That is the Moorer Branch?

A Yes.

Q Mobile Planning Commission, the membership is, and again, I would like for you to interrupt me when I get to a black member.

John L. Blacksher; Joseph M. Courtney; George L. Langham.

A He is black.

Q Robert H. Massey; E. Allen Sullivan, Jr.; and James C. Van Antwerp.

Now, with the exception of Mr. Langham, all of these are white, are they not?

A Yes.

Q Do you regard Mr. Langham as being ready, able and willing to speak for whatever particularized interests, if any, blacks may have in regard to the Mobile Planning Commission matters?

A I do.

Q Mr. Blacksher got after you about the policemen and fire fighters' pension and relief fund board and let me read the membership of this to you.

Dwayne Luce, is vice chairman of the board of the



adjacent to Williamson High School that there was testimony about yesterday.

THE COURT:

Is that predominantly black or mixed?

A I would say predominantly black.

Q Ward thirty-two, Trinity Gardens?

A Up here.

Q All right. Mr. Greenough, if you would get back on the stand for a minute, please.

I would like an expression from you as to whether you consider the parks and recreation program of Mobile is operated in a fair or unfair amount insofar as blacks and black areas are concerned?

A Well, I would have to say that on that balance we probably have committed a larger proportion of our resources to parks and recreation to the black population than we do to the population of the City generally. I think that is fairly obvious if you look over the dispersion of the parks and the major recreation centers.

One thing that is a burden to us in Mobile, we operate a pre-school program, because the Alabama Legislature has not seen fit to provide one for the citizens of the state in the public sector and we recognize that this is a need. So, we provide one through the city recreation department

which consumes roughly fifty percent of our staff resources. We would like to be able to devote those resources to other recreation programs, but until the legislature sees fit to act in that regard, we will have to continue.

I think that we are very fair, try to be, at any rate. We recognize that particularly in parks and leisure activity, it is basically voluntary, particularly when you are dealing with people's children. There is probably more controversy there among people than other normal business aspects of life, but on that balance, I would have to say that we are very fair.

Q You refer to pre-school programs. Precisely what is that, for what age children does that attend to?

A It varies, but generally speaking it is somewhere between the age of four and six and seven, depending on the particular program and the particular location. It is sort of like kindergarden.

We don't have licensed teachers. So, we are not technically giving classroom instruction, but we do teach the youngsters how to get along with one another and getting away from their parents at an early age.

THE COURT:

You made some statement that I missed a few moments ago. I thought you made some statement with reference

to the amount of revenue with reference to the races?

A Yes, sir. I said I would have to say that on net balance we spend probably a higher proportion of our resources on parks and recreation for the black population than the black population represents as a proportion of the general population.

MR. ARENDALL:

Are all of your facilities integrated?

A Yes, sir.

Q Is your pre-school program integrated?

A Yes, it is.

Q Mr. Greenough, you have been a commissioner now for what, three years?

A Two and-a-half, almost three years.

Q Do you consider you have been responsive to the needs of all citizens, both black and white, to the best of your ability?

A I certainly hope that I have, yes.

MR. ARENDALL:

No further questions.

CROSS EXAMINATION

BY MR. STILL:

Q Mr. Greenough, are you in favor of the continuation

the adoption by the City of Mobile of an equal opportunity job ordinance which would apply to businesses which were smaller than fifteen members?

A Well, I think I would -- I know my attitude and I think it is fair to attribute to my fellow commissioners that our attitude is performance rather than promises or ordinances unless they are enforceable and meaningful. There is not any point in having a great bunch of clamor and discussion that is not going to produce anything.

We provide, in all of our contracts and require of people that do business with the city government, equal employment regulations and so forth.

Q Does the city make any effort to make sure that is enforced?

A Yes, we do. We don't have a particular enforcement division, however, it is required of our staff people to review these things just as the prevailing wage rate is involved in most of our contracts and things of that nature.

Q All right. But do I understand you correctly that you oppose the adoption of an equal employment opportunity ordinance because it would be unenforceable?

A I didn't say I opposed it. If we vigorously proposed it, it would harm blacks, particularly in the CETA program.

Q I am talking about private programs in the City of Mobile.

A We don't run private employment in the City of Mobile.

Q If you adopted an ordinance regulating private employment to provide that it had to be on a fair basis, equal employment opportunity, are you for or against such an ordinance?

A Well, I don't think that I can answer the question put that way. Let me respond this way. I think that our businesses in our nation have enough regulations now and just because you pursue a single purpose goal you can pursue it to the point that it is counter productive and I think that is what results in what you suggest, in my opinion. It is a matter of judgment, I suppose.

Q Would you favor the adoption of an equal opportunity housing ordinance of any sort?

A I think that the laws of the United States are sufficient to pursue that goal. What I am trying to say to you is I don't see where anything of substance or anything meaningful, in our community, would be gained by going through such a process.

Q Now, have you made any sort of an analysis, either as a City Commissioner or at the time you were with

Q The difference then being economic level of the group shown on the second page of this graph is higher than on the first page; is that correct?

A Yes.

Q Would you comment on that?

A Well, again, we have the same phenomena. This is the data that appears on one twenty of my desertation, again with 1973 added.

Roughly, the same in 1953 we had a rather low percentage difference between the two racial groups and it begins to increase in '57 and, in the 1960's it really peaks and really so in 1965 and in 1973 dropping down almost to the 1953 level.

Q Would you be seated again, please?

Dr. Voyles, Exhibit 28 reflects the ward by ward vote for each of the candidates in the 1973 election. I will ask you if the opinions that you have expressed are supported in any respect by the returns there for the blacks who ran?

A Well, I think it is supported rather well by the returns for the blacks in that particular election.

Q Did black voters support white candidates over those in their own race in that campaign, in that election?

A For the most part, yes, they did.



that Mr. Bailey's mean in these black wards was forty-three point three three percent of the vote in the first election and Mr. Taylor's was thirty-eight point one seven; is that correct?

A Yes. This is correct.

Q And that in the Mims - Smith race, Mr. Mims's vote was forty-three point four three percent and Mr. Smith's was forty-one point five zero percent; is that correct?

A Yes.

Q And now, looking at the third of these summaries, would you tell us, that is headed summary of data, shift of the black swing vote to Greenough in 1973 runoff, would you tell us what this reflects?

A The first section -- again, it is the listing of the wards by groups showing the returns for Mr. Bailey and Mr. Greenough giving the means for the low income black wards, the low middle income black wards and then the total mean which would be the combination of the two.

As you can see, as a total mean of the wards we classified black, Mr. Bailey received forty-three point three percent and Mr. Greenough fifteen point three nine percent in the first race and then, in the second race, below that .....

Q In the runoff, how did it come out?

A In the runoff, we did the same thing, which is the second group of figures. Mr. Bailey received fifty-nine point three percent and Mr. Greenough forty-three point two percent.

Q What effect, in your opinion did this shift in the vote in the black wards have on the Bailey - Greenough runoff?

A Well, it was very significant in the election of Gary Greenough as finance commissioner of the City of Mobile. As you can see by the figures, Greenough gained substantially more between the first race and the runoff than did Mr. Bailey.

Now, particularly when you consider that Bailey received -- oh, roughly forty-eight point one percent of the vote the first time, Mr. Greenough had his back to the wall pretty much in the runoff and this was a very significant shift in the vote.

MR. ARENDALL:

I offer, in evidence, these three summaries which I would like to have marked under one number and as A, B, and C, respectively.

(Defendant's Exhibit 88A, B and C were received and marked, in evidence)

MR. ARENDALL:

Dr. Voyles, did you notice any comparison or make any comparison between the vote of black groups of differing economic levels and so far as voting for black candidates is concerned when compared with black and white groups of similar economic levels voting for the eventual winners?

A I am not for sure I follow your question.

Q I will ask you whether or not the difference between black groups of different economic levels is greater in voting insofar as voting with black candidates is concerned than it was between black and white groups in similar economic levels in voting on the eventual winners?

A Yes. I believe it was.

Q I believe it has already been testified to, but is it a fact that ward ten was split fifty fifty in the Bailey - Greenough runoff?

A Yes. Exactly each of the candidates got the same number of votes.

Q Dr. Voyles, as a political scientist, how do you value the importance to the fact that this improvement of the black vote for Greenough and the results of that 1973 election is in the overall voting patterns and political picture in Mobile?

A Well, I think we are running, throughout the south, Mobile included, to more normal voting patterns, a situation in which race will not be a major political issue.

Certainly not to the extent that it was in the 1960's.

Q In your opinion, during the 1960's was the black vote very cohesive?

A Yes. I think it was and even prior to the 1960's.

Q Is it fair to say that the non-partisan voter's league, for example, played a part in that cohesiveness of the black vote?

A Yes. I think they played a very significant role.

Q In your opinion, the 1973, had the impact of the non-partisan voter's league pink sheet endorsement substantially diminished and had black cohesiveness substantially diminished?

A Yes. I think it has. I don't want to imply that endorsement by the non-partisan voters league is not important, because it is. However, I think it is destined to happen once you get a larger block of voting that is more voters, it becomes very difficult for any one group to represent their total interest. As blacks become more

assimilated into the political system, endorsement groups are going to become less a factor, following somewhat the same pattern as the labor unions, but as we know, labor union endorsement in Mobile is not worth a great number of votes. All members do not vote the way their people endorse candidates.

Q Would you expect this trend of individual voter decision by blacks to continue?

A Yes. I think it would. I think individual is a good word, but I think also there is diverse interest in the black community that are going to be continued to be represented by other groups other than one nominating group. I think testimony by the non-partisan voters league members earlier indicated that they think this is true also.

Q What is your opinion as to whether the future sees white candidates appealing more openly and diligently for black support than in the past?

MR. BLACKSHER:

Is this a hypothetical question, your Honor? If not, I object, because there is no evidence in the record.

MR. ARENDALL:

It is asking him for his opinion as a political

scientist.

MR. BLACKSHER:

Is the predicate hypothetical or not?

THE COURT:

That is a hypothetical, giving an opinion.

MR. STILL:

The question is white candidates appealing more openly for black votes?

THE COURT:

I understood. That is what he would see in the future and that is the question and you may answer.

A Yes. I think they will. I see no reason why not to.

MR. ARENDALL:

In your opinion, if there is cohesiveness or to whatever degree there is cohesiveness of black votes, the power of the blacks would be represented by that cohesive vote, would it not?

A Yes. I think that hypothetically or practically, whichever way you want me to answer this thing, it ends up the same way. I think that any group that has cohesion in the Mobile community, and I believe the black community still does, will be able to represent a great deal of the electoral power on election day from the fact that the others



votes, as witnessed in the '73 race and also in the '76 county commission race, the other vote is split. The elections are very close and the white community has been very well split.

Anybody that can put together a block of votes has a very strong bargaining position in the community.

Q And to such extent as cohesiveness diminishes through the lessening of what is apparently called polarization, will that not require even greater effort on the part of white candidates to address themselves to matters of concern to blacks?

A Oh, yes, definitely. Because as the group becomes less cohesive, it is going to change the campaign style of white candidates in the black community. They are going to have to appeal to more interest through different ways, I expect, in the black community.

Q Now, Dr. Voyles, I would like to pass to the 1976 elections.

Did you have anything to do with that election?

A Yes. My firm provided the professional services for the Dan Wiley campaign. He was successful in winning the county commission, place one, the position filled by Mr. Yeager.

MR. ARENDALL:

I offer in evidence voting place count and turn out and votes for Bridges and Wiley in that election.

A I might add for the Court, these are the new wards. I believe these are the first Exhibits with the new reapportioned wards.

THE COURT:

So they have no correlation to these wards on this map here, which is Defendant's Exhibit -- what is the number of that -- those wards are not the same wards; is that correct?

MR. ARENDALL:

That is correct.

THE COURT:

All right.

MR. ARENDALL:

Then I offer Exhibit 32, which shows additional data with reference to that Wiley - Bridges race.

(Defendant's Exhibits 31 and 32 received and marked, in evidence.)

MR. ARENDALL:

Dr. Voyles, in connection with your activities on behalf of Mr. Wiley in that race, did you have any occasion to determine whether or not the various candidates were seeking black votes?

A To my knowledge, each of the candidates in the place one race sought the black endorsement through the non-partisan voters league and also launched very vigorous advertising campaigns in the black community.

Q There has been some talk here about the cost of elections in house districts and comparison with at large city elections.

In your opinion, how much cheaper, if any, would it be for one to launch a vigorous campaign in a contested election in a house district race in relation to the cost of a city commission, at large, race?

A I think it would be very little difference between campaigning, at large, and campaigning in single member districts. If it was a vigorous campaign fought by two candidates that wanted to campaign hard. The reason I say that, the big expense in campaigning, regardless of the size of the district, is the media and the media rates are the same regardless of the audience you are trying to reach.

For instance, we go down and buy a thirty minute spot on the T.V. and we have to pay the same rate.

THE COURT:

But do the district candidates address themselves to the same thing?

how can they be a pivotal vote?

A Not to the same degree. They still have cohesiveness, but you were doing a comparison thing. I don't think, for example, we are going to see in the 1970's returns from the black areas where one candidate has received ninety percent of the black vote as once was the case in Joe Langan's races. I think we are going to see or we did see in the 1973 - 1976 race simple cohesiveness within the black community, but nothing like it was in the 1960's.

Q Did you examine Lonia Gill's race for the school board in 1974?

A No. I have not.

Q And have you examined the data that we introduced into evidence in this case regarding Mrs. Lonia Gill's, the vote she received?

A No. I have not, but you are talking about the school commission race there where I think should be distinguished from the City Commission, county commission races.

Q Why is a school board race different than a county commission race? If we are talking about racial polarization within the city of Mobile?

A We are talking about elections that are on different levels. A school board race simply does not attract the attention nor the finances, the money being spent, as a

city commission, county commission race.

As a result, it is my belief that races like school board races, license commissioner races and things of this nature depend more upon the personality or the neighborhood that a person happened to come from, name identification that they have gained through some other way than say a city commission - county commission race. There are no issues in school board races.

Q Except perhaps whether you want the schools integrated or not?

A I don't think anyone really brought that up this last time with the exception of Mr. Westbrook, who ran last.

Q Let me understand this, are you saying that certain elections, certain types of elections, are so qualitatively different that they cannot be feasibly compared with a Mobile City Commission election to tell us the voting behavior of city voters?

A Yes. I think so.

Q Or is a presidential election primary in another state qualitatively different or qualitatively the same as the Mobile City Commission race?

A I don't know that I can really answer that other than we see the voting patterns. There it is, an election that gets a deal of attention.

Q Your running?

A But you also spend a lot of money and get a lot of name identification that does not occur in these minor races like the school board.

Q Well, is it the amount of money or is it the kind of issues that are raised?

A I think the amount of money determines a great deal the kind of issues that are raised. If you can spend -- let's take a figure of forty thousand dollars on a race. You are able to penetrate the voting market much better than you are say in a school board race where you are going to spend four or five thousand dollars.

Thus, a candidate running for a major office spending this type of money can start with very little name identification and build it in all segments of the community; whereas, you are going to run for the school board and say spend four thousand dollars and a person cannot afford to do that. That will not buy you very much time on the media. There are probably some factors involved.....

THE COURT:

Let's take a recess right here. Take a twenty-minute recess.

(RECESS)

THE COURT:



I make for political races and it is my belief that race is no longer an issue to the extent it was in the 1960's. A candidate that would raise that kind of issue today would cost himself as many votes as he would gain, if not more.

Q Are you familiar with Alexander Heards' book, "The New Negro Politics"?

A Yes.

Q He makes the statement, let me read you a statement and let me ask you whether you agree with it.

"The two elections -- that he has just talked about -- suggest the important conclusion that cohesiveness among negro voters lessens when their right to vote is not challenged, and when white candidates solicit their votes with the same impartiality that they solicit white votes. Certainly such as the experience in the upper south and in northern cities."

A Yes.

Q Would you agree with that?

A Yes.

Q He goes on further, "While the importance of one basis for block voting among negroes will decline as negro suffrage becomes better established, another basis for unity in negro voting exists. Thoughtful negroes hold a remarkably uniform view; most negroes are under privileged. They should

therefore support candidates advocating economic and social policies beneficial to the mass of under privileged citizens".

Do you agree with that statement?

A I think that is probably the case that blacks do represent a certain segment of the economic community.

Q Now, 1973 and in 1976 we have evidence that at least, in those elections and at least in the ones that we have talked about, the particular races we have talked about, that black votes were sought impartially?

A No. The races that I was involved in, yes, openly and impartially, I think.

Q Now, you are saying that you can tell that 1973 is not a deviating election from a racial polarized pattern, because it was reaffirmed in 1976?

A That is part of it, Mr. Still. I think also there is a certain amount of intelligence and logic we have to put to that. All we have to do is to watch the nightly news and compare what we were watching in 1965 and '66 and so on. It is a simple fact that race is not a major news getting issue as it was in the 1960's.

We don't have people marching in the streets. We don't have the situation of the conflict between white and black.

THE COURT:

ture in that field, didn't you?

A Yes, I did.

Q All right. Now, in preparing the extension into 1973 which you have shown us on the chart that you have presented in this case, what elections did you look at to come to the conclusion that you presented to the Court in your direct testimony?

A Nineteen seventy-three City Commission and the 1976 County Commission races.

Q All right. Now, in 1972 there was a governoratorial primary in the State of Alabama?

A Yes.

Q Excuse me, that was '74 and in '72 there was a Presidential election and in '76 there has been a Presidential primary, but you didn't look at any of those for the extension of the analyses?

A No, I didn't.

Q But you did look at that kind of election when you were doing your thesis, didn't you?

A Yes, sir.

Q Now, in doing your thesis you looked at all elections in which blacks had run, including school board elections, but in the extension of your analyses, you did not look at the 1974 school board race in which Mrs. Lonia Gill,

Q So you have to look at some background facts. You can't just look at the computer print-outs?

A That is what my committee told me when I first presented that.

Q I see. Now, have you taken into account the 1972 Presidential race, the 1974 school board race, the 1974 governoratorial race in coming to your conclusion that you have made here in the Court about the 1970's?

A No. I have not and, to explain why, if I may, the last Presidential race I think would have no bearing on it any more than the 1964 Presidential race would; that is, that it was an extraordinary race because of the candidacy of Goldwater in '64 and McGovern in '72.

I included the Goldwater race in the desertation because it chronologically fell in where I was talking about. The school board race, again, I do not think that those type of races have a particular bearing on the type of case we are talking about here. I think they are all together different, because of the name identification factor.

Simply put, there are no issues in a school board race. You win simply because of name identification and it is logical for the voters to do this in the school board races. The governoratorial primary, I did not look at that.

Q You also did not look at the 1970 County

Commission race in which Joe Langan ran, did you?

A No, I didn't.

Q Why did you exclude that?

A I didn't do county races in the desertation.

Q But you have included as an example of a supporting example for your conclusions about the 1970's, the 1976 race.

A Again, still the fact that Mr. Langan involved in the race is going to excuse the race somewhat, the 1970 County Commission race, the fact that he was highly identified with the black vote.

Q If Joe Langan had run in 1976 for the County Commission, do you think the results would have been the same?

A I don't know. He had a lot of things against him besides the race. He had been out of office for an awfully long time. I think Mr. Langan could have won in 1970 if he had run the right kind of campaign.

Q Now, your thesis covered the City Commission election or elections from 1953 through 1969?

A Yes, sir.

Q Isn't it true, if we are going to do any type of political analyses like this, we cannot use one isolated election, but instead, we have to look at a trend over a

it would be difficult for a black person to win the race.

I don't think it would be totally impossible.

Q But it would be more difficult than it would be for a white candidate?

A I think it would be. I think blacks are somewhat in the same position now that Catholics were in the Al Smith, John Kennedy races. Someone has to win nationally to solve this issue.

Q Now, you have told us that the 1973 races indicated a return to the type election we had in 1953?

A To a more normal period, yes.

Q How many blacks were registered to vote in 1953?

A I have no idea. It would be very slight.

Q It was probably less than a thousand, wasn't it?

A I really don't know. I think I gave the figures to you. I don't have them up here.

Q As a matter of fact, those figures are in your desertation in a chart, aren't they?

A They may be.

Q Dr. Voyles, you might want to step over here so we can look at this chart close up. I am referring to Plaintiff's Exhibit number 56.

Now, as you remember, this chart shows a



A Yes. I believe I did.

Q And the R, the Pearson's R, for place one, the Bailey - Greenough race, according to your figures was a point seven nine, wasn't it?

A I don't have it, but I trust that is what it is.

Q Now, didn't you describe that in your deposition as being a medium high correlation?

A Yes, it is.

Q As a matter of fact, it explains about sixty-two percent of the vote in terms of race, doesn't it?

A Of the difference between the groups, yes.

Q All right. Now, for the Mims election, I believe the R is a point seven one?

A Yes.

Q And that explains just about fifty percent of the vote for Mr. Mims?

A Yes.

Q Or for or against Mr. Mims in terms of race, doesn't it?

A Yes, except Mr. Mims did so well in all the wards and is really kind of meaningless in terms of politics.

Q Now, the Pearson's R for race for Mr. Langan in the '53 election was point four one and '57 it was point five two; in '61 is point seven one, which is -- all of those are

still less than what Mr. Greenough got in '71 -- '73, I mean?

A Yes. I agree with that.

Q And in '65, Mr. Langan's was point nine three and in '69 it was point nine one?

A Yes.

Q Which those were the two peaks?

A Yes.

Q Now, looking at these figures, rather than just on graph, if we just look at these figures, wouldn't we say that the Bailey - Greenough race in 1973 was more like the 1961 Langan race if we looked only at those figures?

A Yes. That is why we don't look only at those figures. It would be quite misleading.

Q So instead we look at these figures and the chart that you have given us, right?

A I think so and the voting returns.

Q Now, you went over some of the relative merits yesterday of the commission system of government.

What would you say are the relative good points of a mayor-council system of government?

A I think the relative good points are somewhat the same as Mr. Langan described when he was giving his testimony; that is, you have a centralized administrative authority and

one person, who is responsible back to the voters and you have separate legislative authority through the council, which is also responsible back to the voters. It is much easier, I believe, to pinpoint responsibility in a mayor-council system than it is in a commission form of government. I think this is some advantage.

Q Don't you get wider representation around the city?

A I assume it depends on what you mean by how it is divided and drawn.

Q Now, yesterday you were asked on direct examination about the number of white people who would be located in predominantly black wards and the number of black people that would be located in predominantly white wards and the point was made, I believe, at that time, that if there was a return to racial polarization that the white people living in predominantly black wards would be essentially unrepresented. Their votes would be diluted?

A Yes. We say that if we took it to an extreme of polarization.

Q Isn't that what is happening right now with the sixty-five thousand black people in this City that if racial polarization resumes that their vote won't count for anything?

A If there is racial polarization to that extreme,

yes, that would happen. I don't think that is the case.

For example, my legislator happens to be black and I don't think I am just disenfranchised or don't have access to him.

Q If we go to the same hypothetical you were offering yesterday?

A Oh, yes. If we go to extreme polarization between black and white, unless the black community could get into the position of playing coalition politics to influence elections very drastically, it would be a very difficult thing to anticipate. They have been able to be in that position before.

Q Now, also yesterday you gave us a list of reasons why multi-member districting might be preferential to single member districts.

Do you remember those reasons? You don't have to go over them. I want to see if you remember what you said?

A I am not sure I know what you are referring to.

Q Well, I believe you were talking about the technological problem of districting?

A I am with you.

Q Special interest groups and that sort of thing?

A Yes.

Q Are any of those peculiar to Mobile as opposed to

Q Captain, is it the policy of the planning division, as it advises the chief of police to provide adequate protection to all citizens as the resources are available?

A Yes, sir.

Q Irregardless of race?

A Yes, sir.

MR. BEDSOLE:

I have no further questions.

THE COURT:

You may cross him.

#### CROSS EXAMINATION

BY MR. BLACKSHER:

Captain Winstanley, you have explained to us the system you used to assign the number of patrol cars to given patrol areas and the size those patrol areas will be geographically; is that correct?

A Not necessarily the size. It is on the amount of crime in an area, not necessarily -- as I just pointed out, you can take patrol area fifteen in a predominantly black area and that would go about twenty times in thirty-nine, a predominantly white area. Therefore, size is -- we try to consider it when we can, because a car has to come from one side of his territory to another to answer a call, but the

southern water shed in the southern and southwestern part of the City of Mobile.

THE COURT:

All right.

MR. BEDSOLE:

Mr. Joyner, I believe we have got the color of green indicated completed or perhaps just started. I would like to look at the various areas using the pointer. Where is the westlawn project located?

A The westlawn project is located centrally in the City of Mobile at this point here.

Q Would that be the east of the Springdale Plaza complex?

A It would be north of Springdale Plaza.

Q Would you indicate which water shed that would feed into?

A That would feed into the Eslava Creek or Dog River water shed.

Q Where is the east Toulminville project?

A It is located in the northeast section of Mobile.

Q And I believe that you have prepared a chart which we will offer in evidence as an Exhibit, but this bid opening took place January 16, 1973?



A That is correct. It was one of the first. The westlawn and Springhill Avenue were the first projects let.

Q And the east Toulminville project affects a primarily black neighborhood; is that correct?

A Yes, sir. As far as I know.

Q And Springhill Avenue project?

A Well, it was considered an emergency project for years. There had been complaints about ambulances not being able to get in and out of Providence Hospital. That was the reason for initiating the ones on Springhill Avenue first.

Q Before we go any further, relate to us the priority that you have in your major drainage projects? By that, I think you have indicated emergency and so forth. Would you relate the hierarchy of your scheme?

A When this program first started out, it was set up and we tried to catch emergencies first and then we would catch the drains that served the greater number of people second and then individuals third. That is the way the program was started and, if I may, I would like to get into a little background about the program, with the Court's permission?

THE COURT:

All right.

help to serve the drains for the Dauphin Street thoroughfare?

THE COURT:

Are you speaking of the extension?

MR. BEDSOLE:

Yes, sir.

A No, sir. I don't think you could say it would affect the Dauphin Street.

Q Moore's Creek, phase one?

A This is Moore's Creek, phase one, in an area of Kate Shepherd's School, St. Ignacious School, and .....

Q Big Stickney drainage next to Mobile Infirmary?

A This is Big Stickney here. It was necessary to put this one on in to help with the Springhill Avenue drainage problem in front of the Providence Hospital.

Q That was also on an emergency type of need?

A It was. It was outfall for Springhill drainage.

Q Texas Street area, southern drain?

A That is this drain right here in the Texas urban renewal area.

Q I am going on and on. Let us go into some of the ones that we have the plans drawn and that is indicated by the yellow, I believe, sir.

A That is correct.

with the map.

There has been some testimony in this case, Mr. Joyner, about the problems with Three Mile Creek and the fact that perhaps some of these projects that led into it will cause water to be dumped into the Three Mile Creek and won't help alleviate anything until we get the Three Mile Creek problem corrected.

Can you address yourself to the problem of the Three Mile Creek drainage?

A Well, I would certainly have to say it is a big problem. If you wanted to put it into some sort of an equation, I think you might say that Three Mile Creek is to the City of Mobile as the Mississippi River is to the United States. Sure, if you dump water into it, it is going to affect it, but Three Mile Creek has flooded in the past and I suspect that it will flood in the future and I would almost be willing to bet on it.

Q What sort of requests has the city made to various agencies for help with Three Mile Creek problem?

A Well, we have had one meeting that I recall with the Corp of Engineers about Three Mile Creek. We realize that it is a big problem and we want to do something about it, but we are talking about millions of dollars, not just something like the three or four million that we referred

to here as a typical drain in our major drainage program.

We are talking about -- I don't have a figure and I wouldn't even want to guess, but we are talking about a lot of millions of dollars to control Three Mile Creek. We approached the Corp of Engineers for some help on this and for some advice and we met in Colonel Wilson's office about a year ago. I don't remember the date, but it occurs to me it was about a year ago and, at that meeting, we asked for help. The city commission did, or Commissioner Mims, and later on we received a letter from Congressman Edwards that he would try to set funds up on it, on the oncoming budget, to help with the study, to give the corp funds to make a study of Three Mile Creek.

Q In your opinion, as an engineer, Mr. Joyner, is the Three Mile Creek drainage problem, taking the resources of the City of Mobile, is it one that the city itself can cope with?

A No, sir. I don't think so.

Q There have been discussions that perhaps a concrete culvert type of thing be placed in Three Mile Creek. Would this be feasible?

A If you are talking about the normal flows within Three Mile Creek and the water that is just between bank to bank, you could probably safely say well this would be fine

couldn't acquire the right of way there or easement.

Q Have you talked about all of the completed projects now that were built under that second priority?

A In fact, most all of them fall under the priorities of serving the biggest number of people. I don't think there would be a single one on here that would be classified as an individual. It would either have to be an emergency or a greater number of people.

Q Okay. I think you said, Mr. Joyner, that the first one that was completed was the Westlawn project?

A I don't have the dates. They all were let within the same month or two weeks apart.

Q Westlawn, east Toulminville and Springhill Avenue?

A That's right. That was in January of '73. Those were our first starts on the major drainage program.

Q That was in 1973.

What kind of expenditures did the City of Mobile make before 1973 for drainage?

A I don't have any knowledge of how much they spent prior to that. I haven't been with the City all that long.

Q You are giving us a chronology of events, to your personal knowledge?

A Yes, sir.

MR. BLACKSHER:

Have you compiled any figures, Mr. Joyner, that would tell us how much money has been spent on drainage projects in each of the three major water sheds, broken down by water shed?

A No, sir. I don't have those figures.

Q Is there something in the record already in these Exhibits that will allow us to look at them and make that computation?

A Yes, sir. These Exhibits would reflect the amounts in relation to the plat and sums.

Q Would those Exhibits tell us each water shed the projects drain into?

A No, sir. The Exhibit won't reflect that. I think the only way you could do that would be to look at the map and see which one of the creeks it drains into.

Q Well, real quickly, just show the Court which of those projects that are already completed drain into Three Mile Creek?

A Starting at the Three Mile Creek area we have the east Toulminville drainage draining into the Three Mile Creek area. We have a drain located just south of the Mobile General Hospital that is draining into Three Mile Creek area. We have a small drain out at Carrie Drive east that



drains into the Three Mile Creek area.

Q We have two?

A Park Forrest drains -- that drains into the Three Mile Creek.

Q Is that Forrest Park or Park Forrest?

A Park Forrest, I believe. I am sorry, if I got it backwards. Then there are two drains located in the west Border Drive area in Country Club Village that drains into Three Mile Creek that are completed.

The Broad Street drainage, which is a project funded by federal, state and city, drains into Three Mile Creek. That is the only ones, at this time, that I can pick out that drains into Three Mile Creek.

Q Just for the record, now, are all the green indicated projects completed since 1973?

A Yes, sir, with one exception. I think that there is one here on South of the Mobile General Hospital that was either completed in the first part of '73 or just prior to '73.

Q Now, the problems, as I understand it, from all of this testimony with Three Mile Creek is that it serves such a wide area of Mobile west of the river?

A Yes.

Q And that a number of tributaries drain into it

and by the time you get down closer to the river in the inner areas of the city, the banks swell; am I correct?

A Any time that you increase the velocity of these drains on the side you have the water, to the river, faster than you would have a tendency.....

THE COURT:

He talking about the basic problem, as I understand it, not what steps you were taking to relieve it. He is talking about why Three Mile Creek creates the flooding conditions that it does?

A Well, the Three Mile Creek carrying the volume of water, it expands its boundaries and floods.

MR. BLACKSHER:

It is going to be very expensive, because you have to some how widen the drainage area particularly as it gets close to the river and that is why you have to call the Corp of Engineers for help.

A I am not sure widening would solve the problem.

Q My question to you is I don't understand why you would want to build all of these drainage projects that are further away from the river first, which seems to me would

tend to swell the amount of drainage that you would get closer to the river. It seems to me that you would want to work from the other end.

A We are definitely talking about some swelling. I am not sure we are talking about much more than maybe a half inch or an inch of swelling, but due to the improvements we are making .....

Q When Mr. Mims was on the stand, he was telling us that it would not be wise to pave the streets in Trinity Gardens or to build further drainage projects in Trinity Gardens until Three Mile Creek could be reinforced or fixed somehow to accept this greater drainage; is that correct?

A Well, I don't know what to say about that other than if we get to talk about the project of drainage in Trinity Gardens it is a real flat area. There is no place much for the water to go and it is our aim to try to provide some outlets for this water in the Three Mile Creek -- into Three Mile Creek from Trinity Gardens and that is the only place it can go.

Q Having consulted with the Corp of Engineers, Mr. Joyner, does the city have any proposal in mind to solving the problem of the Three Mile Creek drainage project? Your testimony is pretty pesimestic that there is

no solution.

A If you talked to hydraulic experts and all, they hate to jump to hasty conclusions about what to do to solve that problem right now. That is the reason we have asked for a study and asked help from the Corp for a study on Three Mile Creek.

We have tried to dredge it and let me bring out, if I may, Three Mile Creek starts out here at Cody Road and it is probably forty or fifty feet above sea level. Down here, close to the Mobile River area, it is at sea level.

THE COURT:

Well, now, that is the question I wanted to ask you. What is the highest sea level in the Mobile area that these water sheds affect; is it forty, the highest?

A No, sir. I live a hundred and forty feet above sea level and water off of my yard runs into Dog River. The whole western part of town here, primarily -- well, I would say from right along in here on up to here, all of this drains into Three Mile Creek, the whole northern half of the city drains into Three Mile Creek.

THE COURT:

And that runs from sea level near the Mobile River to what?

A Well, I was fixing to say from Mobile River to Staton Road is sea level and from Staton Road on up to Cody Road.....

THE COURT:

That is out close to the Providence Hospital?

A It is out past the Mobile Infirmary.

THE COURT:

It is sea level that far?

A Yes, sir. And we have to have permits to drain into that, because it is affected by the tide.

THE COURT

All right. What is the outer most limits of the city?

A From there on out to the outer most limits -- I don't have a quad sheet or anything to refer to, but I am sure it exceeds fifty sixty feet on out to the western limits.

What I was about to say there, out here you get a lot of velocity in your stream. It picks up soil erosion off of yards and along the banks and everything and it has a tendency to deposit this silt from Stanton Road to the Mobile River. We have gone in there and dredged and in researching the records, we started dredging Three Mile Creek in 1958.

In 1958 you could take the material out of that creek and put it up on the banks and give a larger capacity, you might say, for the creek without any problem, but now days to dredge this body of water we have to have permits. People don't particularly want us to put the soil on their property and the three areas that we do have places to place spoil, when we put it up there we have to haul it off. So, we do try to keep Three Mile Creek dredged and opened up to handle all the water it can, but we have problems with that.

MR. BLACKSHER:

You say you have to get permits other than land owners'? Do you have the United States government to deal with?

A That is correct. We ask them for the permit and they take the application and circulate it. It goes through the water improvement commission, EPA and various other agencies.

MR. BLACKSHER:

Why is it, Mr. Joyner, that the city has not approached the fundamental problem of the Three Mile Creek drainage situation until 1975 when you went to the Corp of Engineers?

A Well, the Three Mile Creek area has flooded, you



know, all the way back as far as I know and all of a sudden everyone becomes conscious about trying to do something about the drainage. I think that would be in '72.

In '75 was the time in which we were approached and in which we asked for help on it.

Q You can't say what is going to happen on Three Mile Creek?

A I hope that there will be some means in which we can help control it, but I don't think that we will ever master it.

Q Just a couple of other questions here.

Among the completed drainage projects, you mentioned the Texas Street southern project in the urban renewal area?

A Yes, sir.

Q Was that financed in any part by federal funds?

A I don't have any knowledge of how the financing was set up on the project. I understand that sometimes that they have revenue sharing involved in them, but I don't know the amounts or how much.

THE COURT:

Are you going to be with him much longer?

MR. BLACKSHER:

Just one more question.

You said that the west Toulminville drainage project, which will provide relief for Trinity Gardens is eligible for community development funds.

Why is that particular project eligible?

A When you start looking at sixty miles of drains and you are limited in funds, you start searching and looking for everybody that is willing to contribute or help out with it and these community development funds were there.

Q Are the other projects also eligible for community development funds?

A No, sir.

Q I am trying to .....

MR. BEDSOLE:

We will have a witness testify about the community development program.

MR. BLACKSHER:

You don't know the answer to the question?

A No, sir.

MR. BLACKSHER:

All right. Your Honor, I said one more and I am through.

REDIRECT EXAMINATION

BY MR. BEDSOLE:

Q Mr. Joyner, as relates to the Trinity Gardens area, is it necessary to lower any creek to drain this? Is it necessary to lower the drainage as it comes out the Trinity Gardens like a saucer?

A Well, Trinity Gardens is flat and everybody knows that if you have a flat surface like that and water gets on it and you can't get it off readily, if you will put a grade to it and give it a tilt you can carry water off from an area. That is what we are attempting to do is grade it out to Three Mile Creek.

MR. BEDSOLE:

That's all.

THE COURT:

All right. Gentlemen, be back at one-thirty-five.

(LUNCHEON RECESS)

THE COURT:

All right. Whom will you have next?

MR. BEDSOLE:

Tom Peavy.

TOM PEAVY

the witness, called on behalf of the Defendants, and after having first been duly sworn to tell the truth,

THE COURT:

Yes.

CROSS EXAMINATION

BY MR. STILL:

Q I would like to show you what has been marked, for identification, as Plaintiff's Exhibit number 111, which are documents received from the office of revenue sharing concerning the complaint issued or initiated by the N.A.A.C.P.

As you can see, the letter marked "C", to the Honorable Lambert C. Mims, is from the local branch of the N.A.A.C.P. It is a three page letter signed by Dr. Gaillard. I call your particular attention to the document labelled in which is a memo or a memorandum to the file from Robert Murphy and several other people.

Mr. Murphy was one of the people that you met with; is that correct?

A Dr. Murphy, yes.

Q Now, among the things that you looked at during that compliance review trip here to Mobile was it Herndon Park and Gorgus Community Center that you looked at?

A I did not attend those trips with them concerning the parks. I had nothing to do with them.

Q All right. I call your attention to the statement



on page two of this memorandum which says, "Pictures of these two parks clearly show that Herndon Park, which was in the white community, is in better condition than Gorgus Community Center. Furthermore, the swimming pool in the center is not operative and is in dire need of repairs."

Is that a correct statement from this?

A I am not familiar with the condition of the parks; no, sir.

Q All right. And did not they say on page three of this memorandum that even though they found no discrimination that they recommended that there be a follow-up to see that the pools in minority areas are constructed and renovated in time to be used by the beginning of next summer?

A It was my understanding that these pools have been done, not by the next summer, but they have been done as of this date.

Q This memorandum is dated 8/31/73, I believe.

Now, the next section of the report deals with paving, resurfacing and drainage and begins on page four of the memorandum.

On page five there is the following statement, "However, it is quite evident that these areas, to a very large degree, talking about paving here, with the exception of Trinity Gardens and the Bay Bridge area are being used for

commercial and commuter traffic, such as Davis, Stanton, Donald and Summerville Streets rather than for use of citizens in more generalized residential areas."

The yellow areas noted on the map indicate that resurfacing projects have been concentrated on the main streets of the white neighborhoods. There is clear evidence that the resurfacing projects were not performed on an equitable basis of the neighborhoods.

A I would have to disagree with that.

Q You disagree with that?

A Yes, sir.

Q But if you take a look at your map, wouldn't you say that the yellow lines are primarily in the white neighborhoods?

A I seem to see yellow lines all over that map.

Q The report goes on to state, "The complainant also provided several photographs of areas which had poor drainage, such as Chisam and Persimmon Street which were caused by the dike built by the city to retain the water from the river. The city has now agreed to cut a hole in the dike so that the accumulated water can filter into the river."

The total allocation of revenue sharing funds, approximately one million one hundred and seventy-six thousand



dollars, for the installation of drainage systems has been limited to the neighborhoods of: Riverside, Beichleiu, Mertz, Maryvale, Maysville, Rolling Acres, Jackson, Bolton and Airmont. Some of these neighborhoods are shown as areas with drainage problems, but others are indicated as having adequate drainage. All of these neighborhoods are predominantly white.

Those areas which were considered with adequate drainage were included in the revenue sharing budget, when those in the black neighborhood listed as poor drainage were not. Also, we noted that the city's capital budget shows that seven hundred thousand dollars was allocated for a drainage project along the Dog River area which is also predominantly white. We did note, however, that the City of Mobile has allocated approximately one million dollars for the drainage system along the Three Mile Creek area and the downtown section, which is predominantly black."

Did they bring that to your attention when they made the audit?

A No. I have never seen this letter.

Q Now, I call your attention finally to within this larger document, a letter labelled, at the bottom, H.H., and it is a letter dated September 23, 1974, and sent to Mayor Greenough.

Is that a copy of a letter that you have seen before?

A Yes, sir. I have seen this.

Q All right. In that they specifically request that if you will follow up on the things that they mentioned in some earlier conversation with you, then you will have demonstrated compliance with the act; is that correct?

A That is correct.

MR. STILL:

Your Honor, we offer Exhibit -- Plaintiff's Exhibit number 111.

Now, so we can understand this very clearly, normally low cost paving or curb and gutter paving is done on an assessment basis, is it not?

A That is correct.

Q And sidewalks are done on a one hundred percent basis; aren't they?

A That is correct.

Q I believe with curb and gutter streets and low cost pavement, one-third of the cost is born by the local residents?

A That's right. It makes it come out one-sixth to each property owner.

Q To each side of the street?

as to Defendant's Exhibit 60- D, which breaks the streets down by the ward groupings, why didn't you break that down reflecting which streets were paved by private developers, which was done under low cost and which were done by venture?

A I was not asked to do that, sir.

MR. MENEFEE:

Okay, sir. No further questions.

THE COURT:

You may come down.

Whom will you have next?

MR. BEDSOLE:

Just one further, Mr. Summerall, isn't this map number 60-E, does it reflect that done by the city in red, either by the venture system and that done by private developers in the green?

A Yes, sir. That's right.

Q But is it not done by ward group?

A No, sir.

Q Based on your observations as to the red and green, Mr. Summerall, has most of the work that has been done by the developers been in the western section of the city?

A Yes, sir.

MR. BLACKSHER:

Objection, your Honor. That is an observation

figure. It was, at one time, one million nine something. The second year was two million seven hundred and sixty-two thousand dollars and the third year estimate was four point six million and I think the figures will remain four point six million, at least that is the published and for the remaining three years, four point six, four point six, et cetera.

Q I will ask you this, Mr. Barnett. Taking your study -- let's say the base study, the 1966 neighborhoods of Mobile, and the up date, the 1975 housing demand and needs analysis. Your city planning commission makes studies of it and classifies houses in these various neighborhoods, does it not?

A Yes, it does.

Q Take, for example, the Trinity Gardens neighborhood. Can you give us the comparative housing standards and the numbers since 1966? I believe you have them broken down in classifications of some sort?

A Yes. The standard and depreciating and sub-standard and then we have vacant. In 1966 there were thirteen hundred and ninety-five dwelling structures in Trinity Gardens. Fifty-two of them were not occupied. Of this thirteen hundred and ninety-five, two hundred and fifty seven were listed as standard and three hundred and sixty-three

as depreciating.

This depreciating is a term we use to say that the house is not standard, but it can be fixed up and it deserves to be. It isn't a shack and it isn't that run down.

Seven hundred and twenty-three were listed as sub-standard and should be either destroyed or completely rebuilt. Fifty-two were rebuilt. In 1975 you wanted a comparison?

Q Yes, sir.

A Two hundred and fifty seven listed as standard, had risen to nine hundred and seventy-two standard structures and the depreciating number didn't change appreciably, but the standard dropped from seven twenty-three to twenty-six leaving about four hundred units in Trinity Gardens that needs some attention as opposed to one thousand units in 1966. The figures completely reversed and interestingly enough there are less houses, only thirteen hundred and sixty-four, and still about thirty-four vacant. Most of this is caused by code enforcement by the city since they started a comprehensive program in 1965 and 1966.

Q That is known as the neighborhood improvement program?

A That is just a part of it. They go out and hold

meetings also and try to encourage people to fix their homes up.

The inspection department will then go out and give the house an inspection and tell the people exactly what is wrong with it and neighborhood improvement would guide the people as to just how to get the best deal to fix the house up, give them guidance. Better Business Buearu is there. A lot of neighborhood leaders, city leaders and experts in the field to tell these people how and the best way to get their house fixed up.

Q So it would be a voluntary program?

A Yes. The only thing you might say compulsory about the whole thing is that the City did go out there and tear down and condemn most of the vacant rundown shacks.

MR. BEDSOLE:

I have no further questions.

#### CROSS EXAMINATION

BY MR. MENEFFEE:

Q Mr. Barnett, the figures you were just giving us on the changes and housing conditions, what does that come from?

A That comes from our survey and the original figures came from our survey using the same criteria.



Q What is the original, the neighborhoods of Mobile?

A Original -- in the neighborhoods of Mobile, I combined two neighborhoods there and call it Trinity Gardens. In the neighborhoods of Mobile they are called Nelly and Summerville and you have to add the two figures together to get the thirteen ninety-five. I did that quickly, but that is approximate, very, ver close.

Q Well, the figures from your up date on the housing, that is a reflection of 1970 figures?

A 1975. I have 1970 figures. I have them. I didn't read them.

They are also listed, the 1970 figures are listed in this Exhibit on housing demands and needs analysis under Trinity Gardens, Nelly, Summerville and Trinity Gardens.

MR. BEDSOLE:

Defendant's Exhibit number 90.

A The 1970 figures. Now, you would have to add these figures, because Trinity Gardens is actually two neighborhoods. It is called Nelly and Summerville in that publication.

For instance, in the Nelly neighborhood, which is everything north of the railroad that cuts through the middle section of Trinity Gardens, the figure had jumped from

one hundred and ninety-two standard to four hundred and eighty-seven standard and then to six hundred and seven standard in 1975, just for that portion, and the depreciating had jumped from two hundred and seventy-two in '66 to three hundred and sixteen in 1970, to three hundred and twenty-six in 1975 and the number of substandards had fallen from five hundred and forty to two hundred and seven, in 1970 to twelve in 1975.

Now, that is just a portion of Trinity Gardens. The others are in the Summerville neighborhood. It had standard which jumped from sixty-five standard to two hundred and forty-one in 1970 to three hundred and twenty-six in 1975. The depreciating numbers changed this way, ninety-one in 1966 and it dropped to eighty-two in 1970 and it dropped to forty-six in 1975. The sub-standard changed from one hundred and eighty-three sub-standard in 1966 to ninety-three in 1970 down to sixteen in 1975.

The figures that are missing from there, that doesn't add up to the thirteen ninety-five is the number of vacant. I think that is about thirty or something like that. So, they are in that -- whatever that housing demand and needs analysis is.

Q Is this a consistent result that you have achieved throughout the black neighborhoods in the city?

A Not that dramatic in most of the other areas, but it is very consistent with the city as a whole.

Dramatic results have been achieved in the city through code enforcement as evidenced by publications from HUD, "Challenge", a report put out by Mr. Papageorge in the HUD, complimenting on the success of code enforcement in the City of Mobile, citing it as one of the best in the nation. He cited figures in there in 1962 using census figures. I think they extended from sixty -- there were nineteen thousand sub-standard units listed in the City of Mobile. In his report he said they had come in and encouraged the city to start enforcing the codes and so forth and not be re-certified in its program.

Since that time, he made a survey and found that by 1970 those figures had dramatically dropped to less than three thousand sub-standard and depreciating homes. He counted the ones that were brought in compliance.

We now estimate that figure is sixty-five hundred. He didn't count the ones going bad, but that is a city wide -- that is a reduction of thirteen thousand from a high of nineteen thousand.

Q This article you referred to is in the back?

A It is in the back of the housing demands and needs analysis.

Q Could we turn to that, please, sir?

A Yes, sir. It is George Papageorge, yes. Here is the big drop, nineteen down to that.

Q Yes, sir.

A And he attributes it to strong code enforcement.

Q I am reading from the first page of the article. It says, "Federal statutory requirements were a major factor in bringing about a change"?

A That is the requirements that we enforce our codes.

Q The Federal government requires that these codes be enforced?

A You are required in re-certification of your workable program, back in those days, to have codes or you weren't eligible to receive urban renewal money. The reason for that, the Federal government didn't want cities to have money that were allowing housing to go bad. They insisted that each year and then it changed to eighteen months that the city certify its workable program. That is a term where you go plead your case and say look, we have done our job, enforced our codes, and now this should make us eligible with urban renewal and it did. We never have lost our certification.

Q The community development program has a rather



Mr. Walsh about the budgeting process for the city that the '75 budget did not reflect revenues from the community development funds?

A Well, I couldn't swear -- I know that this is -- we just got our new one approved. We have sent in two.

You do one a year. I may have my math wrong, maybe '75 and '76. Yes, I think that's right, and the third year will start in '77.

Q In your neighborhoods of Mobile and again in your updated study, your housing.....

A It is the housing study.

Q The housing study, you went through the neighborhoods and repeated the -- to a substantial extent, re-identified those areas which were the most blighted; is that correct?

A That is correct.

Q One criteria was indices of social blight and another indices of physical blight; is that correct?

A Right.

Q Would it be fair to say that there is a high correlation between indices of social blight and the blackness of the neighborhood, racial composition?

A To a large degree, yes. That was pointed out in the original study. We did not redo all of the original in this.

This was more or less housing, but if you will look

-- if you would graph all of those things they would be predominantly in those areas social problems as well as housing problems. They overlay over each other.

Q Would that also be true for indices of physical blight?

A That is correct.

Q This neighborhood of Mobile study, which I understand is based on some data from 1966, but was finally put together and published in 1969, is the most comprehensive analysis your department has undertaken in recent years; is that a fair assessment?

A Well, I like this new housing study for what it is. It is much more comprehensive. We didn't do the land use in here, but describing the problems in the neighborhoods. I think this new housing demands is more complete.

Q But more limited?

A Yes, more limited. It is dealing with housing. We did, as you mentioned, show overcrowding, got into the concentration of how many people lived in the black neighborhoods, where they are, and we found, for instance, ninety-five percent of the blacks live in about fifteen neighborhoods and that almost every one of those were the same as the seventeen or eighteen most blighted neighborhoods.

Q So, it was almost a perfect correlation between the



most blighted neighborhoods and the black neighborhoods?

A Yes. I think that is what the study points out. That is why we picked the seventeen neighborhoods in there.

MR. MENEFEE:

No further questions, your Honor.

THE COURT:

You mentioned in the housing needs study -- did you say sixteen thousand persons or sixteen thousand families that could not buy or rent?

A Families. That is based on their income and the average cost of a new home.

THE COURT:

When you say rent, is that with reference to any type of housing, including private?

A This is in the private sector. It does include all of the people that are in public housing, because they automatically couldn't afford to rent.

THE COURT:

Well, the term "rent", you apply that as to the private sector, because public housing is a subsidizing form of housing?

A Well, I have better clear that up. For instance, when you take the thirteen thousand figure .....

THE COURT:

step over here and I will ask you a few questions and you can retake the stand for some other questions, please, sir. Take the pointer and stand over there so the Judge can see.

Would you explain to the Court the various recreation districts of the city.

A We have here district one which is basically the northern part of the city. This includes the Toulminville area, Plateau. It is the area that is one hundred percent black in its composition of playgrounds and neighborhoods that we serve. It goes out -- it also includes the Trinity Gardens area and -- well, it does come down to Sage and Dauphin, but basically it is the area that we refer to as district one.

Q Let me interrupt you just one moment, please, Mr. Calametti. This is map number 2-D, which has been admitted in evidence previously with Mr. Greenough's testimony.

You may continue, then, with the various districts, please, sir.

A District number two is basically the southern district that we have. It extends down Dauphin Island Parkway. It serves both sides, of course, of Dauphin Island Parkway, and does include these facilities at Taylor Park, which is Baltimore, the Crawford Park area and the areas around

Government Street out around the loop area, the area around Duval Street and in that particular section of the city.

District three, this is the western section of Mobile and this is the section west of I-65. It is a very large district in area, although we do not have too many centers out there. This is the area serving the municipal park or Langan Park area, Cottage Hill, Springhill and over into the area off of the western section of Moffat Road out that way. That is three sections of the city, at this time.

Q If the clerk would hand me, please, Exhibit 62-A, a Defendant's Exhibit.

You can retake the stand, please, Mr. Calametti. Your Honor, Exhibit 62-A was previously introduced when Mr. Greenough was testifying. It has the various recreation centers and parks broken down by Dr. Voyles's groups and by various wards.

Mr. Calametti, do you have a copy of Exhibit 62-A?

A Yes, sir.

Q I will ask you, briefly, Mr. Calametti, in district one, which is the northern part of the city, did you compile some figures as to the number of facilities, the number of personnel and the payroll expenditures?

A In district one, yes.

step over here and I will ask you a few questions and you can retake the stand for some other questions, please, sir. Take the pointer and stand over there so the Judge can see.

Would you explain to the Court the various recreation districts of the city.

A We have here district one which is basically the northern part of the city. This includes the Toulminville area, Plateau. It is the area that is one hundred percent black in its composition of playgrounds and neighborhoods that we serve. It goes out -- it also includes the Trinity Gardens area and -- well, it does come down to Sage and Dauphin, but basically it is the area that we refer to as district one.

Q Let me interrupt you just one moment, please, Mr. Calametti. This is map number 2-D, which has been admitted in evidence previously with Mr. Greenough's testimony.

You may continue, then, with the various districts, please, sir.

A District number two is basically the southern district that we have. It extends down Dauphin Island Parkway. It serves both sides, of course, of Dauphin Island Parkway, and does include these facilities at Taylor Park, which is Baltimore, the Crawford Park area and the areas around



Government Street out around the loop area, the area around Duval Street and in that particular section of the city.

District three, this is the western section of Mobile and this is the section west of I-65. It is a very large district in area, although we do not have too many centers out there. This is the area serving the municipal park or Langan Park area, Cottage Hill, Springhill and over into the area off of the western section of Moffat Road out that way. That is three sections of the city, at this time.

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Q I will ask you, briefly, Mr. Calametti, in district one, which is the northern part of the city, did you compile some figures as to the number of facilities, the number of personnel and the payroll expenditures?

A In district one, yes.

Q Let me ask you this, Mr. Calametti, did you do so at my request yesterday?

A Yes.

Q The number of facilities that -- now, let's make a distinction, please, sir. You are the recreation director; is that correct?

A Right.

Q You are not the parks' director?

A No. You have a separate parks department.

Q All right. Would you please, then, outline.....

THE COURT:

Tell me the difference.

MR. BEDSOLE:

That is what I am trying to do, please, sir.

What is the difference, Mr. Calametti, between the recreation director and the parks department?

A Basically, the recreation department is responsible for the programming on the parks and in the centers. The parks department is responsible for the physical facilities, the maintenance, upkeep and that sort of thing.

THE COURT:

Just a minute.

MR. BEDSOLE:

Mr. Calametti, at my request, did you compile some



figures as to the number of personnel you have working under you and the number of facilities that the recreation department is involved in, in the various districts?

A Yes.

Q Please, sir, in district number one, how many facilities do you have under your supervision?

A Eleven.

Q That is involved in a recreation program of some sort?

A That's right.

Q How many full time personnel do you have employed?

A Well, we have sixty-six personnel in that area.

Q In that area; is that correct? Well, you said eleven a minute ago. What do you mean by eleven and now sixty-six?

A Eleven facilities, your Honor, and sixty-six persons.

THE COURT:

Fine.

MR. BEDSOLE:

So, you have eleven areas where you are operating and then you have sixty-six full time personnel working for you?

A They will be full time and part time, counsellor, some would be part time.

Q Part time would include an individual that might come after school?

A Yes. The athletic program is basically after school from three-thirty to six-thirty and some of the centers are open until ten o'clock at night and we have some people say working from seven to ten.

Q In district two, how many centers are involved in the recreational program?

A Ten.

Q Mr. Calametti, is this in the southern area of the city?

A District two, yes.

THE COURT:

One is really the northeast and district two is the southeast?

A Yes.

MR. BEDSOLE:

In district three, which is the western section west of Interstate.....

THE COURT:

You didn't get the number of persons in two.

MR. BEDSOLE:

How many personnel do you have under your direction in district two?

A Fifty-five.

Q All right, sir. District three, Mr. Calametti, which is basically, I believe, west of I-65; is that correct?

A Yes.

Q The number of facilities that are involved in the recreation program are what?

A Six.

Q How many people do you have working under you in district three?

A About thirty-five.

Q All right. I believe that you have made some percentage figures on some of these for us at my request, did you not?

A Yes, sir.

Q Looking back at district one where we have eleven facilities, percentage of the total number of facilities involved in the recreation program, what is the percentage of the facilities in district one, please, sir?

A Forty-one percent.

Q And the number of personnel in district one out of all the personnel that you have working in all three districts, what is that percentage?

A Forty-two point three.

Q I believe you have taken your records, Mr. Calametti,

and compiled some payroll expenditures for me; is that correct?

A Yes, sir.

Q Now, in district number one, which is the northeast part of the town, what have been your payroll expenditures over what period of time, Mr. Calametti?

A That would be 1974-'75. The figure that we have here is a hundred and ninety-seven thousand six hundred and fifty dollars.

Q All right, sir.

A That is about forty-two percent.

Q Forty-two percent?

A Yes.

Q District two, what were your payroll expenditures in the year 1974-'75?

A A hundred and sixty-one thousand five hundred and ten dollars.

Q And in what percentage of that is the total?

A About thirty-four point four.

Q In district three, the western section of town, Mr. Calametti, what was your payroll expenditure in that area?

A A hundred and ten thousand eight hundred and forty dollars.

Q What was the percentage of that?

A Twenty-three point six.

Q All right, sir. Let me ask you this, Mr. Calametti. Did you compile any figures as to your year around staff, total number, please, sir?

A Yes. This is full time?

Q Yes, sir.

A Full time and then part time, eighty-three.

Q All right, sir. Is that full time or part time?

A That is both.

Q Mr. Calametti, I believe you have related to me the basic use by school children or youngsters -- of course, there are some older people, adults, that use the recreational facilities, but basically where is the greatest use of the recreational facilities, in what district?

A One.

Q And have you been out and visited those various recreational facilities?

A Yes.

Q Would the population or the school children or people that use the recreational facility, what is their racial make-up of district one, in your opinion, as you observed the program?

A It is very heavily predominantly black.

Q What sort of generally -- what sort of programs do you provide at your recreational facilities?

A Well, during the winter, it would be -- they have play school programs, basically in the morning, when school is in session. They have various programs for the housewives or the adults who are available at that time of day.

In the afternoon, before school is out, after lunch, then you have other programs for adults or young adults who are available to take part, at that time of day, and from three-thirty and on when the school is out, then the program is, of course, geared for the children between then and seven o'clock at night.

Athletic programs, arts and crafts, music, games, little tournaments, almost any type of activity they prefer to have.

THE COURT:

Let's take a ten minute break.

(RECESS)

THE COURT:

All right. You may continue.

MR. BEDSOLE:

Mr. Calametti, in order to clear up a matter, the figures that you gave me earlier divided by districts, do those figures of personnel include people that might be



employed in the summertime?

A Yes. Those were from 1974 - '75. We have a very large number of people that come to work in the summer only.

Q Would that be high school students?

A That could be, and could be a lot of teachers and coaches.

THE COURT:

Would that be included in the original figures?

A Yes, sir.

THE COURT:

All right.

MR. BEDSOLE:

Mr. Calametti, where are, primarily, the facilities -- I guess we would call them indoor facilities or gymnasiums, where are those primarily located?

A The city has gymnasiums at the playground facilities in the Roger Williams housing project.

Q In what district is that located, Mr. Calametti?

A That is in district one.

Q All right.

A They have gyms at the Josephine Allen housing project, which is also in district one. They have one at Lesley Busky Center, which is also in district one.

They have a gym at the Joe Radford Thomas center,

which is on Davis Avenue, which is in district one. We have a gymnasium at the Springhill Avenue recreational center on Springhill Avenue, which is also in District one. We have a gym at the Taylor- Plaza center on Michigan Avenue which is in district two.

Q Let me ask you this, Mr. Calametti, to interrupt you a moment. All of these gym facilities, in your opinion, as a recreational director, what race primarily uses those gymnasium facilities?

A Primarily the blacks.

Q You may continue.

A We have another gym at the Harmon recreational center in Maysville, which is also in district two.

Q Is that predominantly black?

A Yes. Those are the only gyms that the city operates.

Q Where are the swimming pool facilities located, Mr. Calametti, and in what district and, if you can indicate, based on your experience as a recreational director, which race primarily uses those pools?

A Well, we have a pool at Taylor Park, which is on Baltimore Street and that is in district two. That is predominantly black and there are some whites that use that pool.

We have a pool at the Kidd Playground which is in Plateau, Alabama, and that is predominantly black. We have a pool at the Joe Radford Thomas center on Davis Avenue and that is very predominantly black and we have a pool at the Gorgus playground in Toulminville, which is in a predominantly black neighborhood, yes.

Q Mr. Calametti, do you have supervisory personnel....

THE COURT:

Is that all the pools in the city?

A Yes, sir.

THE COURT:

So, all the pools are in black neighborhoods?

A Yes, sir.

MR. BEDSOLE:

Mr. Calametti, then all the pools, publicly operated under your recreation department and all the gymnasiums are in predominantly black neighborhoods; is that correct?

A Yes.

MR. BEDSOLE:

I have no further questions.

THE COURT:

You may cross him.

to give you an opportunity to point out everything and then some things I want to see.

MR. ARENDALL:

Yes, sir. We will make the arrangements.

THE COURT:

Now, I am sure, with reference to remarks that I have heretofore made, I am sure that you think you heard and think you understood what I said, but I am not always sure that you understood what I meant by what I said. Let me state that I have not come to any conclusion in this case and I make that statement particularly in the light of the next statement I am going to make.

This case was filed in May of last year. I beg your pardon, June 9th of last year. I have stated that I wanted to decide this case together with the county and board of education -- the County Commission and try to come out at the same time. In the event, and I emphasize again, I have not come to a conclusion, but I am concerned about time schedules and about time consumed. In the event that I should decide for the Plaintiffs, it will be nothing but fair to give the Defendants an opportunity to present some plan, as I required by the pre-trial order of the Plaintiffs to give and so I would like for the city to have prepared, at the time that arguments are made and I would like for them to be



furnished not less than two weeks ahead of that time -- I don't have my diary. I believe it is about the 13th of September that the County case is set. Then we will say that by the 1st of September, Labor Day, comes on the 6th of September, by the 1st of September I would like for the Court to be furnished the City plan or alternate plans and furnish it to council for the other side.

MR. STILL:

Your Honor, also, if we could present an additional plan. As you noticed our plans follow census districts, I think, in the intervening plan.

THE COURT:

You may do so, but don't inundate me with too many.

MR. ARENDALL:

Are those plans to be restricted to a division of the city or also, for example, to prescribe the suggested powers of somebody?

THE COURT:

That is a good question. As I understand it, under state statutory provisions, the alternative power in the statute, the code section as presented in the last part of yours, that the city can change its own form of government, isn't that correct, and go to certain mayor alderman plans

and so forth?

MR. STILL:

Yes, sir. There are certain forms established.

THE COURT:

I understand those statutory plans have been referred to as a weak mayor council plan. There has been quite a bit of testimony as to the undesirability, almost overwhelming testimony or almost uncontradicted testimony and what concerns me is the details, how much detail we are going to get in. I would say, yes. I would like to have some powers, but I would like for us to somewhat follow the wisdom of the founding fathers with reference to our constitution as contrasted to the 1901 constitution of Alabama, which is so long.

But, with reference to what has been determined a weak mayor council plan and a strong mayor council plan and, don't get into too much detail, yes. I would like for that. I am going to set up schedules for plans for both parties before trial date in September. Why don't you do this, let's keep the dates -- I like to keep everybody under the gun and then it gives me time. If you need a little more time to come back and explain, okay.

MR. ARENDALL:

We will do our best to have it by September 1st.



Does your Honor want any supplemental briefs?

THE COURT:

I will leave that up to you gentlemen. They have been well briefed and I have studied your brief. If you want to, I am not going to require it.

You both have extensively briefed it and very ably and since I say that to both of you, I don't want you to say -- if I ever received a learned trial judge, I knew I was reversed, so I don't say that in that sense. I think it has been exhaustively briefed.

If you want to add supplemental briefs, y'all can exchange briefs and get those in by the 1st of September.

MR. STILL:

Yes, sir.

THE COURT:

Any other questions you have to ask me?

MR. STILL:

No, sir. I don't believe so.

MR. ARENDALL:

You want us to meet at your office with a lawyer and an expert and a van?

THE COURT:

Yes. All right, gentlemen, thank you.

VOTER REGISTRATION  
MOBILE - 1973

PREDOMINATELY BLACK WARDS

WARD	% BLACK V A P	V A P	REGISTERED VOTERS AS OF JULY 9, 1973
1	95.3%	1878	963
2	95.2%	4639	2876
3	95.9%	6679	4558
10	99.5%	6285	4192
20	96.0%	1817	1251
22	94.7%	1771	1152
32	99.9%	2883	1478

Totals 7 Black Wards

2,5952  
% Black Registered  
[Voters 63.4%]

16,470

PREDOMINATELY WHITE WARDS

4	.2%	2742	2720
6	2.1%	5685	5035
15	2.1%	3893	3324
16	.09%	2167	2077
17	.00%	4846	4465
18	2.1%	6342	6363
35	.4%	2915	2336
36	.08%	5362	3140
37	.6%	4058	3140

Totals 9 White Wards

38,010  
% White Registered  
[Voters 89.6%]

34,086

VOTER REGISTRATION  
MOBILE COUNTY - 1976

PREDOMINATELY BLACK WARDS

WARDS	% Black	POPULATION	REGISTERED VOTERS MARCH 23, 1976
33-91-1	91%	12,709	3,384
33-99-2	95.4%	8,664	3,149
33-99-3	90.6%	4,510	1,808
33-99-4	99.7%	5,536	1,712
35-103-1	99.5%	8,946	2,784
Totals 5 Wards		40,365	15,037

% Black Registered  
Voters 37.14%

PREDOMINATELY WHITE WARDS

34-100-4	0.6%	7,760	4,431
34-101-1	0.7%	7,310	3,807
34-101-2	2.6%	4,196	4,177
34-101-3	0.4%	5,520	4,141
34-102-3	1.0%	4,244	2,831
34-102-4	0.3%	2,704	2,052
34-102-5	0.0%	6,914	4,460
35-104-4	0.8%	6,029	3,330
Totals 8 Wards		44,677	29,229

% White Registered  
Voters 65.18%

Sources: % Black - computed from census data by Anthony Parker.  
Population - computed from census data by J.E. Voyles.  
Registered Voters - taken from official Board of  
Registrars records.

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Plaintiffs Exhibit 7

VOTER REGISTRATION - MOBILE COUNTY

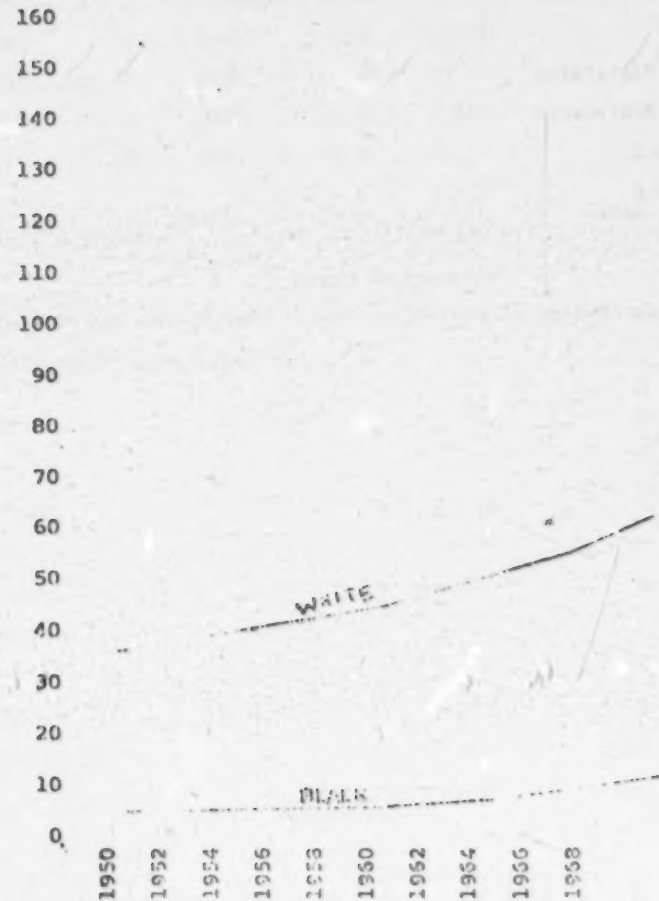
	-Years-				
	1956	1966	1968	1973	1976 <sup>1/</sup>
% White Registered		88.4%	94%	89.6%	62.2%
% Black Registered	14%	48.8%	64%	63.4%	36.5%
Difference		39.6%	30%	26.2%	25.7%
Difference State at Large		36.9%	25.8%		

<sup>1/</sup> As a percentage of population rather than voting age population  
(VAP).

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CHART I

## VOTER REGISTRATION IN MOBILE, ALABAMA



Source: Board of Registrars, Mobile County, Official List of Voters, 1963-1970.

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The attitude in Mobile County toward Negro suffrage has been less restrictive than in some other areas of Alabama, such as many black belt counties where few, if any, Negroes were registered prior to 1965. An assessment of a Negro's freedom to register in Mobile is difficult, but it is probably safe to speculate that, at least since 1965, Negroes have been able to register and vote in Mobile with a minimum of difficulty.

The latest reliable figures on registration by race are those of 1964, since race is not designated on registration forms after that year. Any projection from 1964 to date is difficult; the Justice Department estimates are by state only and are not broken down by county. Luckily, the Southern Regional Council in Atlanta does publish registration figures by race and by county.<sup>5</sup> Using these figures and census data projections from the Southern Regional Planning Commission, it is possible to project reliable figures on Mobile registration by race and by ward. These are presented in Table I (page 48) and are reflected in Chart I (page 37), which shows the growth of Negro registration in Mobile from 1948 to the present.

Registration is but one side of the coin. To register is only part of the action of voting, and data reveals that Negroes do not exercise the right to vote in as high a percentage as do whites in Mobile. For example, in the 1968 presidential election, a great deal of effort was made to get Negroes to the polls, in an idealistic hope of preventing

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Wallace, at least, from receiving a majority in Alabama. In Mobile County, the turnout for Humphrey in the black wards was sizeable, as will be discussed in a later section of this paper, but the falloff between the vote for president and the vote for congressman was significant, as is indicated by Figure I. The falloff is even more extraordinary when one considers that Nobel Bensley, a Negro, was a candidate for Congress on the National Democratic Party of Alabama ticket.

FIGURE I

Negro Voter Turnout  
1968 Presidential and Congressional Races

	Total Registered	Presidential Vote	Congressional Vote
Ward 1	729	492	163
Ward 10	3453	2383	751
Ward 31	578	505	354
Ward 32	1048	745	236

Source: Official Canvass, Tabulation and Declaration of Presidential and Congressional Races Held in Mobile County, Alabama, 1968.

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H. D. Price observed the phenomenon of "falloff" in black voting across the South, and he suggested some explanations for its occurrence:

Many whites vote at least partly because they regard it as a duty and as part of being a good citizen. Once at the polls, they usually take the trouble to indicate a choice in most of the contests on the ballot. Negroes, however, have not been subjected to decades of civic exhortation on the virtues of voting per se. In fact, their very right of participating in elections at all is still politically controversial even though legally settled. As a result, most Negro voters go to the polls only when there is a contest that presents a choice of direct meaning to them. And once in the voting booth, Negro registrants are still quite likely to indicate a choice only in the contest or contests that have particular interest to them.<sup>6</sup>

Price's observations seem to be valid in Mobile, and certainly falloff and poor turnout dilutes black voting power.

The 1967 tax proposition referendum is another example of the relatively poor turnout in black wards when elections of minor attention are held. In the fall of 1967, a tax proposition was placed before the citizens of Mobile County to establish a temporary additional property tax to support

<sup>6</sup> H. D. Price, The Negro and Southern Politics (New York, 1962), p. 77.

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the S.T.A.N.D. organization is still alive and well in Mobile, prospering on attention accrued in its stand against Lusing. As this is being written, Westbrook has again filed to run for a seat on the school board.

Also in 1969, the Republican party felt strong enough to demand representation in the county's legislative delegation. A local attorney, Bert Nettles, filed for one of two vacant seats in a special 1969 legislative contest. The Democratic party in the county had a candidate who was supported by George C. Wallace, Sage Lyons, whom they wanted elected at any cost. Since two black candidates were filing--one for each seat--it was feared that a head-on confrontation between Nettles and Lyons would result in a plurality for a black in one of the elections. Thus an agreement was reached: Lyons would run for one place, Nettles for the other. In return, the Democratic County Committee agreed that Nettles would face no strong opposition in his contest. Since this was a special election, the Democratic County Committee certified the Democratic candidates without primary elections and could keep their promise not to run a candidate against the Republican, Bert Nettles. This arrangement, however, could not have been made had not

a sizeable number of the County Democratic Executive Committee supported Nettles. Thus, the election of both Nettles and Lyons was insured.

The voting fell into racial divisions, with Montgomery and Bell receiving majorities in each of the black wards. It will be noted, however, that Bell ran considerably behind Montgomery in each of the black regions, indicating the strength of Beasley's opposition to his candidacy. Lyons ran well ahead of Nettles in the race, showing especially his strength in the lower-middle income white wards. But, both Lyons and Nettles did quite well in all areas of the city except the black regions, proving it possible for a Republican to win a seat in the Alabama legislature, a feat dreamed impossible until after 1969.<sup>9</sup>

This examination of voting in Mobile reveals that the turnout patterns here follow socioeconomic lines in about the same manner as studies in other areas have revealed. Using Scammon's words, "the unblack, the unpoor, and the unyoung,"<sup>10</sup>

<sup>9</sup>Ibid.

<sup>10</sup>Richard M. Scammon and Ben J. Wittenberg, The Real (New York, 1969), pp. 45-61.

The Pearson computation again reveals the racial implication of the voting. A coefficient of  $-.92$  indicates an almost perfect negative correlation of the number of Negroes in a ward and the vote for Wallace. The economic breakdown is peripherally high at  $-.43$ , indicating that Wallace did better in the upper-income areas than in the poorer wards. This is, however, misleading. When the black wards are removed from consideration, a truer picture is presented. A coefficient of  $.84$  is computed, showing that, in the white wards, Wallace did better in the lower-income areas than in the more affluent districts. This is no doubt a reflection of the traditional loyalty of the white middle-class to the Republican party. In any event, Wallace so overwhelmed his opposition in Mobile that the scattered vote for Humphrey and Nixon is virtually meaningless, except in the Negro wards, where Humphrey did very well.

Presidential elections in Mobile have gone in the same direction as have other elections: race has emerged as the greatest issue. To better dramatize that proposition, a closer look will be given to two hypotheses:

1. Negroes have declined in political power in Mobile since the 1960's.

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2. An alliance of the "have-nots" against the "haves" has not resulted from larger Negro registration, as V. O. Key suggested might occur.

Figure XVII presents a percentage comparison of the vote in the Mobile elections discussed above, arranged to test the above hypotheses. The percentage difference between votes cast for the winning candidates in the lower-income black wards and the lower-income white wards is indicated. Likewise, this statistic is used to compare the votes cast in the low-middle income black and white wards (groups three and four). Since the income of these groups is relatively the same, a high percentage difference will show a voter choice made on the basis of race, rather than economics.

Hypothesis two is difficult to test, since the relationship between racial composition of the wards and economic level of the area is so closely aligned in Mobile. Figure XVIII, however, presents a comparison of vote between the lower-income white wards and the higher-income white wards. By eliminating black wards from consideration, the influence of race as a factor in the comparison is held at a minimum. The statistics presented in Figure XVII support the view that black electoral strength has decreased

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FIGURE XVII  
Comparison of Black/White Voting in Selected Economic Groups

Election

Percentages of Winners

City Commission	Low Black	Low White	Diff.	Low-Mid Black	Low-Mid White	Diff.
953 Finance	57.63	53.30	4.33	47.50	48.67	1.17
Works	73.73	68.30	5.43	60.10	67.37	7.27
Police	57.93	59.10	1.17	53.30		
957 Finance	81.50	54.31	27.19	58.24	51.46	6.78
Works	83.41	64.38	19.03	75.22	65.64	9.58
Police	77.54	53.31	25.23	52.16	84.89	32.73
961 Finance	94.31	46.41	47.90	91.30	50.94	40.36
Works	16.22	46.04	29.82	22.51	55.67	33.16
Police	14.21	46.56	32.35	31.44	53.26	21.82
965 Finance	89.01	43.29	45.72	87.48	46.73	40.75
Works	32.11	49.75	17.64	19.30	51.02	31.72
Police	28.83	82.60	53.77	27.00	78.90	51.90
969 Finance	11.25	53.63	42.38	5.61	65.65	60.04
Works	34.18	56.91	22.73	19.11	54.12	35.01
Police	31.38	87.15	55.77	28.17	81.40	53.23
973 Finance	87.39	83.58	3.81	82.19	79.82	2.37
Works	14.61	45.70	31.09	37.15	54.21	17.06
Police	13.51	43.90	30.39	46.00	52.81	6.81
985 Finance	9.04	61.05	52.01	5.71	54.14	48.43
Works	7.41	85.31	77.90	1.34	73.08	71.74
Police						
987 Finance						
Works						
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since the 1960's. The observation is clear: with the exception of city commissioner Joseph Langan, no candidate who has won a majority in the black wards of Mobile has also carried a majority in the entire city since 1960. As the Figure indicates, before 1960, the difference between black and white voter choice is not greatly significant in most races when economic level is held constant. While the black vote was disproportionately small compared to the number of Negroes residing in Mobile, their votes were often important enough to be sought. Since 1960, this has not been true; identification with the black wards is the "kiss of death" for an office-seeker in Mobile. The black voters constitute such a visible and emotional issue to Mobile's white voters that any identification with blacks in Mobile will produce a reaction by white voters and defeat the black-supported candidate. Thus, while the numbers of blacks voting has increased, the relative importance of the black vote is less than before the civil rights movement of the 1960's.

Race is perhaps the reason that there is little deviation in voting by whites regardless of economic level in the city of Mobile. Figure XVIII presents a comparison of the vote between the lowest income and the highest income white

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FIGURE XVIII

Comparison of Low/High Income White Wards in Mobile Voting

Election	City Commission	Percentages of Winners		
		Low White	High White	Diff.
1953	Place One (Finance)	53.30	52.40	.90
	Place Two (Works)	68.30	65.80	2.50
	Place Three (Police)	59.10	53.15	5.95
1957	Place One	54.31	51.13	3.18
	Place Two	64.38	66.83	2.45
	Place Three	52.31	33.41	18.90
1961	Place One	46.41	51.62	5.21
	Place Two	46.04	63.14	17.10
	Place Three	46.56	61.75	15.12
1965	Place One	43.29	44.63	1.34
	Place Two	49.75	54.70	4.95
	Place Three	82.60	76.86	3.74
1969	Place One	53.63	50.78	2.85
	Place Two	56.91	56.90	.01
	Place Three	87.15	74.13	13.02
Gubernatorial				
1954		83.58	77.84	5.74

586

FIGURE XVIII (continued)

Election	Percentages of Winners		
	Low White	High White	Diff.
Caldwell			
Presidential			

Source: Probate Court Records

587

wards. The figures presented here indicate that there is no major difference in voting patterns between low and high income white areas in Mobile.

Except for the 1957 and 1961 city commission races for Place Three (Public Works Commissioner), and the 1964 Place Two (Police Commissioner) race, there have been no major differences in voting between the groups in city commission races. Both of these races involved Commissioner Hackmeyer, who, as previously mentioned, attempted a low-income black and low-income white alliance. He was successful, as figures indicate, in gaining support from this alliance, but it did not produce enough votes to keep him in office after the 1957-1961 term.

The 1961 Police Commissioner race (Place Two) also shows some variation between groups (17.10 percent). This can most likely be explained by the candidacy of McNally, a Republican, who drew disproportionate strength from the traditional Republican areas--the upper-income wards. After 1961, the local elections show no major difference in white wards of high or low income. This indicates that the choice of voters was determined by something other than economics.

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The gubernatorial and presidential contests show little difference in economic level after 1960. True, the Democratic ticket in 1960 (Kennedy) and in 1968 (Wallace) did fare better in the low-income white wards than in the upper-income white areas, but this can be explained by the traditional support for the Republican presidential candidate in these areas. The 17.33 percent difference in the 1970 gubernatorial primary is due probably to the Wallace appeal to race, which had more support in the low-income areas than in the high. But, even in the upper-income areas, Wallace won a landslide 68.98 percent of the popular vote.

Thus, this examination of the vote reveals that an alliance of the "have-nots," cutting across racial lines, against the "haves" has not materialized in Mobile, nor is one likely. Likewise, the position of the black vote in Mobile is becoming more and more tenuous. Presently, identification with the black vote spells defeat for any candidate in Mobile. In practical terms, this means that blacks have less influence than they had before the 1960's, and that candidates for office are able to ignore black interests and still be elected. It is ironic that the

**589**

civil rights movement--which intended to increase black political power in the South--has had the reverse effect in Mobile.

**590**

CITY COMMISSION

includes these tests

Voyles Pearsons r

1953	1. Langan	2. Luscher Sr.	3. Mackneyer
Income	.38	.52	.61
Race	.41	.69	.34
1957	1. Langan	2. Luscher Sr.	3. Mackneyer
Income	.64	.89	.84
Race	.52	.38	.25
1961	1. Langan	2. McNally	3. Trimmer
Income	.33	.83	.81
Race	.71	.81	.82
1965	1. Langan	2. Mims	3. Outlaw
Income	.47	.93	.43
Race	.93	.96	.92
1969	1. Langan	2. Mims	3. Doyle
Income	.44	.90	.41
Race	.91	.95	.87
1973	1. Greenough/Bailey	2. Mims	
Race	.79	.71	

Regression - the numbers are circled on the chart.

1965	No.	Candidate	Coef. <sup>1</sup>	Data Base
	1	Langan	.71	Ours
	2	Mims	.67	Ours
	3	Outlaw	.77	Ours
	1	Langan	.86	Voyles
	2	Luscher	.67	Voyles Ours
1969	1	Langan	.74	Ours
	2	Luscher	.78	Ours
	3	Doyle(run-off)	.38	Ours
	1	Bailey	.82	Voyles
1973	1	Bailey(run-off)	.51	Ours
		Smith	.83	Ours
		Taylor	.90	Ours
		Albert	.80	Ours
	1	Greenough	.59	Voyles

Referendum

1963	.58	Ours
	.80	Voyles 1960 Data
1973	.80	Ours

School Board

1970	Jacobs (runoff)	.87	Voyles
	Jacobs { " }	.84	Ours
1972	Koffar { " }	.83	Voyles
1974	Gill (runoff)	.89	Ours

Clarence Montgomery - legislative race 1969 not included - race tested at .85.

COUNTY COMMISSION

Regression	Candidate	Coef.	Data Base
1968			
All Wards	1 Yeager	.46	Ours - Gen. Elec.
"	2 Smith	.17*	" "
"	3 Stevens	.06	" "
City Wards	1 Yeager	.51	" "
"	2 Smith	.10*	" "
"	3 Stevens	.08	" "
All Wards	1 Yeager	.78	Voyles Primary
"	2 Smith	.73	" "
"	3 Stevens	.90	" "
1972			
All Wards	1 Yeager	.31	Ours Gen. Elec.
"	2 Smith	.83	" "
"	3 Haas	.81	" "
City Wards	1 Yeager	.33	" "
"	2 Smith	.84	" "
"	3 Haas	.82	" "
All Wards	Langan	.85	Voyles Primary
"	Mrs. Stevens	.35	" "
"	Capps	.66	" "

Additional School Board Races

1962 Run-off	Goode	.83	Voyles
1966 Run-off	Russell	.95	Voyles

\* Testing Income



JOHN LaFLORE



GERRE KOFFLER

## WHO WILL RUN YOUR SCHOOLS? GERRE KOFFLER FACTS:

RUNNING FOR PLACE NO. 3, SCHOOL BOARD COMMISSION, MAY 30th.

1. SIGNED AGREEMENT WITH NAACP TO ACHIEVE TOTAL INTEGRATION WITH TOTAL Busing.
2. VERY ACTIVE IN THE MILITANT ORGANIZATIONS ACT, NAACP, NOW, NON-PARTISAN VOTERS LEAGUE, LEAGUE OF WOMEN VOTERS.
3. HAS ENTERTAINED BLACKS IN HER HOME.
4. HAS BEEN SEEN AND PHOTOGRAPHED IN COMPANY OF BLACK MALES.
5. UNDER INSTRUCTION OF ALBERT J. FOLEY IN THE CIVIL RIGHTS SCHOOL CURRENTLY.
6. POLLED 92% OF BLACK VOTE IN MAY 2, PRIMARY.

WARDS	MAY 2 BLOCK VOTE			
	Koffler	Sessions	Langan	McConnell
3				
STANTON ROAD	746	170	1,071	49
10				
DAVIS AVE.	529	123	820	87
31				
PLATEAU	270	22	282	10
32				
TRINITY GARDENS	320	24	372	41

## PLEASE VOTE MAY 30

OFFICIAL C. B. I. REPORT DATE LINED MOBILE, ALA.

593



J. L. Lafferty, Secretary of the Alabama Citizens' Committee for the Destruction of the Wallace Team, speaks at the Birmingham, Ala., rally.

REMEMBER...it takes only a simple plurality to win.

**BLACK TUESDAY**  
**THE CHOICE IS YOURS**

These people seek to destroy George Wallace and the Wallace Team

Bill Sellers—The State Of Politics

Press Register—S-A

## Wallace Popularity Assessed

594

At a time when many people think George C. Wallace stands a chance—admittedly a slim one—of being elected President, many others here in Alabama feel he will have a difficult time winning another term as governor in 1965.

The latter contention is based on some recent signs of a Wallace popularity slump.

It is true that Wallace's popularity in the past 12 months has been dropping steadily.

But, according to some public opinion polls, the Wallace camp is still in a strong position to win the 1965 election.

One reason for this is that Wallace has been able to maintain a high level of popularity among the white population.

Another reason is that Wallace has been able to maintain a high level of popularity among the black population.

And there are many other reasons why Wallace is still so popular.

One of the most important reasons is that Wallace has been able to maintain a high level of popularity among the white population.

Another reason is that Wallace has been able to maintain a high level of popularity among the black population.

And there are many other reasons why Wallace is still so popular.

One of the most important reasons is that Wallace has been able to maintain a high level of popularity among the white population.

Another reason is that Wallace has been able to maintain a high level of popularity among the black population.

And there are many other reasons why Wallace is still so popular.

One of the most important reasons is that Wallace has been able to maintain a high level of popularity among the white population.

Another reason is that Wallace has been able to maintain a high level of popularity among the black population.

And there are many other reasons why Wallace is still so popular.

WAS IT MONEY OR PROMISES THAT SECURED THIS BLOC VOTE?  
BEAT THE BLOC! Vote and the Choice is Yours! Don't Vote and the Choice is Yours!

BY VOL. 10, BY C. B. I.

72



**HARRY  
McCONNELL  
IS CONCERNED  
WITH ISSUES,  
NOT RECORDS,  
but . . .**



**SPEAKING OF RECORDS . . .**

**1** Langan favors at least 40% property tax on all County property. Langan said, "However, just a 40% tax would be enough."

(Mobile Press and Register, April 22, 1964)

**2** Langan received following votes in the predominately black wards.

	LANGAN	McCONNELL
WARD 1 (Stimrod Rd.)	250	13
WARD 2 (Toulminville)	473	34
WARD 3 (Stanton Rd.)	1071	49
WARD 10 (Davis Ave.)	830	87
WARD 20 (Harmen Park Belfast)	360	10
WARD 31 (Mobile Co. Training- Plateau)	282	10
WARD 32 (Trinity Gardens)	372	41
PCT. 11 (Shepard Lake)	98	4
	<b>3726</b>	<b>276</b>
PERCENT OF VOTE	(93.2)	(6.8)

(From official Mobile County Democratic Primary Canvass signed by Jeff C. Sims, Chairman of Mobile County Democratic Executive Committee.)

**3** Langan was a City Commissioner the last time YOUR city sales tax was raised.

(October 1, 1963)

**BELIEVE ALL THE PROMISES YOU WANT  
...THESE ARE THE FACTS!**

**ON MAY 30...VOTE TO PROMOTE McCONNELL  
PLACE 3 MOBILE COUNTY COMMISSION  
PO. POL. ADV. BY GEORGE A. TOUMIN, MOBILE, ALA.**

595

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*Bill Register  
Friday May 1964*

**M  
A  
Y**

**DON'T LET  
THE  
BLOCK VOTE  
BEAT  
YOU!**

596

597



TO CHANGE THIS, LET'S GET BEHIND **BAILEY** FOR NEW LEADERSHIP & REAL PROGRESS

598

## JOE LANGAN'S EPISTLE TO THE VOTERS OF WARD 10

"Then the voters were herded into the voting booths to be counted, the blind, the mutes, the dead, and the illiterates. And lo, 99% bore the brand of Joe Langan."

Then the FAITHFUL REJOICED. And they swarmed in the recreation center holding their Ward Tabulations aloft and crying out in a loud voice. "See how I delivered my ward." There is no Commissioner but Joe Langan and my cousin, Teddy, is his president."

The results were confirmed and the computers had ceased to compute, the politicians started forth on their pilgrimage to the Avenue... to receive the blessings of the chief politician and to pluck the sacred fruit of the tree of patronage.

But when they arrived they found Joe sitting disconsolately on a mountain of morning papers. And the music was stilled, no songs filled the air, and only the mournful howl of a few was heard in the land.

Then the ward healers drew around and questioned him saying, "Wherefore art thou sad? Thou has overwhelmed thine enemies, yea even unto 99 percent in the colored wards.

But General Joe answered them saying, "BUT WHAT OF THE 1% WHO AMONG YOU HAVING LOST A SHEEP FROM HIS FLOCK, does not leave the 99 and go in search of the one that is lost.

Then Mr. Metro spoke in the voice of thunder saying, "I shall build my cousins Great Society in which there will be no percentages, no poverty, and no vehicle inspection stations, but possibly a ZOO.

Where the humblest citizens will have the same opportunities as Mr. Bill Crane, and Mr. Floyd Pate. Where the last shall be first, and the first shall be first and all others before and after him shall be first and Mobile County shall have 50 parks, 300 fire stations, 10 thousand miles of streets, 20 libraries, 6 tunnels, and 10 airports, and we shall receive 200 million dollars in poverty funds from my cousin, Teddy. WE SHALL EMBRACE ALL MEN AND WOMEN, BLACK OR WHITE, REGARDLESS OF PREVIOUS POLITICAL AFFILIATIONS."

But the ward healers murmured against him for they feared if all partook, the Pork Barrel would soon be empty and they might be forced to help pay for the filling of it again. Then Mr. Metro knowing their thoughts, spoke to them saying, "OH, YE OF LITTLE FAITH, did I not cause the NAACP to lie down with the SILK STOCKING WANDS? Did I not convince the people of Mobile County that my TAX AND SPEND POLICY is the best way to balance the budget and not add any NEW TAXES and yet still have more PUBLIC IMPROVEMENTS. All these miracles of PROGRESS I have performed and YET YOU STILL DOUBT? COME LET US REASON TOGETHER OR ELSE!!!!

# THE REGISTER

FINAL

d the Nation Since 1813

ISLAND, ALA. FRIDAY MORNING, JUNE 25, 1976

10¢ DAILY, 80¢ WEEKLY, PLUS TAX

## Numerous cross burnings spread across Coast area

A rash of cross burnings Wednesday night in predominantly black neighborhoods from Mobile to Pensacola, Fla. brought a promise from Baldwin County Sheriff Thomas "Buck" Benton "to stop it one way or another."

Burning crosses is the most cowardly thing I know of— I just deplore it," Benton said, adding, "I plan to take some action." He added that anyone caught burning crosses in Baldwin County would be prosecuted.

State Troopers reported at least 25 crosses were set afire in the two southernmost Alabama counties. Meanwhile, at least seven crosses were reported burned in Escambia County, Fla. in front of black churches and organizations.

The Escambia County burnings came within hours of a school board decision relating to the nickname for racially-troubled Escambia County High School.

Benton said one incident also involved shots being fired into the air, and one cross was burned in front of the home of a white family living in a predominantly black neighborhood.

Benton said he was unsure whether or not the Ku Klux Klan was involved in the cross burnings, but he said the incidents were apparently a "show of strength" by some elements in the area.

No arrests or injuries were reported. Officials said they are hampered because there is no law prohibiting cross burnings in Alabama.

Most of the crosses, reportedly four in five feet tall, were wrapped in burlap and doused with kerosene before they were set ablaze.

Reports placed the burnings at Parkhope, Tennaw, Whitehouse Forks, Crossroads, Clay City, Marlowe, Foley, Neutan Heights, Magnolia Springs and Mullet Point Park in Baldwin County. Mullet Point is an Eastern Shore public beach popular among Baldwin's blacks.

Mobile police said one cross was burned on Avenue A off Cottage Hill Road in front of a black man's house.

In Pensacola, targets included churches, schools, offices of the Southern Christian Leadership Conference (SCLC), the studios of television station WEAR-TV, and the home of a WEAR reporter.

The reporter, Ken Larson, and a black cameraman were reportedly refused admission to a Ku Klux Klan meeting recently.

Earlier Wednesday, the Escambia County School Board ruled it could change the nickname or symbol of the high school if it felt such action would be in the public interest. Once the name or symbol was adopted, only the school board could change it.

The school nickname first was an issue in 1975 when black students objected to the name Rebels and the Confederate flag as the school symbol. A federal judge's order banning the name was appealed by the school board, and racial disturbances ensued in the area.

Meanwhile, students voted to change the name to Raiders, which stuck until an appellate court overturned the original ban. Another student vote retained the name Raiders, but racial disturbances which followed injured several students.

The school board, in emergency action, changed the name to Patriots in March, and the decision Wednesday solidified that choice of nicknames.

Tyrone Brooks, an SCLC spokesman in Atlanta, called Pensacola "one of the most racist cities in America" and claimed that local officials condoned the cross burnings.

"It's a tragedy that this kind of thing would go on in 1976, and the only group I've ever known to burn crosses is the Ku Klux Klan," Brooks said. A Klan spokesman denied any advance knowledge of the cross burnings.

The Southern Christian Leadership Conference asked for an FBI investigation of the cross-burning Wednesday in front of the civil rights group's office in Pensacola.

"We consider this act a blatant attempt by racists in Pensacola and Escambia County to intimidate and harass our chapter officials and the black community," SCLC president Ralph Abernathy said in Atlanta in a telegram sent Thursday to U.S. Atty. Gen. Edward Levi.

Brooks said Pensacola SCLC chapter president F.L. Henderson saw three white men setting fire to a cross as Henderson approached the building, but the men fled before he got there.



CITY  
COMMITTEES

Plaintiffs Exhibit 64

PLAINTIFFS' EXHIBIT  
COMMITTEE MEMBERS

		Black	Total Members	Total Prior Members	Prior Black Members
1	BOARD OF ADJUSTMENT	1	7	9	0
2	AIR CONDITIONING BOARD	0	5	2	0
3	ARCHITECTURAL REVIEW BOARD	3	5	6	3
4	AUDITORIUM BOARD	3	12	9	2
5	MOBILE BEAUTIFICATION BOARD	3	28	17	0
6	MOBILE BI-CENTENNIAL COMMUNITY COMMITTEE	3	46	0	0
7	CENTER CITY DEVELOPMENT AUTHORITY	0	1	0	0
8	BOARD OF EXAMINING ENGINEERS	0	3	0	0
9	BOARD OF ELECTRICAL EXAMINERS	0	4	3	0
10	CITIZENS ADVISORY GROUP FOR THE MASS TRANSIT TECHNICAL STUDY	3	0	0	0
11	CITIZEN ADVISORY COMMITTEE - DONALD-CONGRESS, LAWRENCE ST. & THREE MILE CREEK FREEWAY	11	15	0	0
12	CODES ADVISORY COMMITTEE	0	17	0	0
13	COMMISSION ON PROGRESS	9	21	0	0
14	EDUCATIONAL BUILDING AUTHORITY, INC.	0	3	0	0
15	MOBILE AREA PUB HIGHER EDUCATION FOUNDATION INC.	0	6	0	0
16	FINE ARTS MUSEUM OF THE SOUTH AT MOBILE	1	21	20	1
17	FORT CONDE PLAZA DEVELOPMENT AUTHORITY	0	4	1	0
18	MOBILE HISTORIC DEVELOPMENT COMMISSION	0	52	61	0
19	INDEPENDENCE DAY CELEBRATION COMMITTEE	1	14	0	0

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CITY  
COMMITTEES

PLAINTIFFS' EXHIBIT  
COMMITTEE MEMBERS

	Black	Total Members	Total Prior Members	Prior Black Members
20	INDUSTRIAL DEVELOPMENT BOARD	0	0	3
21	MALAGA DAY COMMITTEE	0	0	0
22	MOBILE HOUSING BOARD	1	2	0
23	MOBILE MEDICAL CLINIC BOARD - PSYCHIATRIC	0	0	0
24	MOBILE MEDICAL CLINIC BOARD - TRANQUILIZING	0	0	0
25	FORT CITY MEDICAL CLINIC BOARD	0	0	0
26	MOBILE MEDICAL CLINIC BOARD - SPRINGHILL	0	0	0
27	MEDICAL CLINIC BOARD OF THE CITY OF MOBILE	0	0	0
28	MEDICAL CLINIC BOARD - SECOND	0	0	0
29	MOBILE MEDICAL CLINIC BOARD	0	0	0
30	MOBILE LIBRARY BOARD	0	0	0
31	GREATER MOBILE MENTAL HEALTH-RETARDATION BOARD	2	6	0
32	PIER AND MARINA COMMITTEE	0	0	0
33	MOBILE PLANNING COMMISSION	0	0	0
34	POLICEMEN AND FIREFIGHTERS PENSION AND RELIEF FUND BOARD	1	8	1
35	MOBILE TREE COMMISSION	0	3	0
36	NEIGHBORHOOD IMPROVEMENT COUNCIL	0	5	0
37	PLUMBERS EXAMINING BOARD	4	20	2
38	RECREATION ADVISORY BOARD	0	0	0

717

603

CITY  
COMMITTEESPLAINTIFFS' EXHIBIT  
COMMITTEE MEMBERS

	Black	Total Members	Total Prior Members	Prior Black Members
39 SOUTH ALABAMA REGIONAL PLANNING COMMISSION	1	6	0	0
40 BOARD OF WATER & SEWER COMMISSIONERS	1	5	7	0 (1)
41 EMPLOYEES INSURANCE ADVISORY BOARD	0	10	0	0
42 MOBILE COUNTY HOSPITAL BOARD	1	9	0	0
43 FRANK S. KEELER MEMORIAL HOSPITAL	0	2	0	0
44 ARTS HALL OF FAME COMMITTEE	0	1	0	0
45 PUBLIC EDUCATION BUILDING AUTHORITY	0	3	0	0
46 EDUCATIONAL BOARD	0	9	0	0
TOTALS	47	461	179	6

SUMMARY: - 10.1% of present appointments are black.  
 - 8.2% of all appointments to active committees are black.  
 - 7.5% of all appointments to active and inactive committees are black.  
 - If 2 committees, numbers 11 and 13, are excluded the other 44 active committees have 6.3% black members.  
 - 29 of 46 committees (63%) have no blacks.  
 - Only 3 of 46 committees, numbers 4, 11 and 13, have blacks as 25% or more of their membership.

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CITY  
COMMITTEES

## INACTIVE

PLAINTIFFS' EXHIBIT  
COMMITTEE MEMBERS

	Black	Total Members	Total Prior Members	Prior Black Members
A AMBULANCE ADVISORY COMMITTEE	0	5	0	0
B ANIMAL SHELTER BOARD	0	9	0	0
C CHILDREN'S THEATRE ADVISORY COMMISSION	0	9	0	0
D MAYOR'S COMMITTEE ON RECIPROCAL SWITCHING	0	6	0	0
E MOBILE AIRPORT PLANNING ADVISORY COMMITTEE	5	120	0	0
F MOBILE COUNTY LAW ENFORCEMENT PLANNING AGENCY SUPERVISORY BOARD	0	2	0	0
G MOBILE INSURANCE ADVISORY BOARD	0	12	0	0
TOTAL	5	163	0	0

719

IN THE CIRCUIT COURT OF  
MOBILE COUNTY, ALABAMA

I SPECIAL REPORT OF THE  
I MARCH - APRIL, 1976  
I GRAND JURY OF MOBILE COUNTY

We the March - April, 1976 Grand Jury of Mobile County, Alabama, after having been recalled specially to consider evidence gathered by the Mobile County District Attorney's Office regarding eight (8) City of Mobile Policemen and Glenn L. Diamond, do hereby submit to the Court our special report and hand to the Court S indictments.

On April 22, 1976, this Grand Jury was called into session by the Honorable Robert E. Hodnette, Circuit Judge, and ordered to report on April 23, 1976 at 10:00 A.M. At that time Judge Hodnette instructed this Grand Jury to consider and delve into evidence presented to us by the Mobile County District Attorney. The District Attorney has presented to us the result of a diligent and honest investigation into the facts and circumstances surrounding the incident. After carefully and conscientiously considering all of the evidence from Glenn L. Diamond, his companions and the accused police officers, we feel compelled and have the responsibility to make certain observations, suggestions, and recommendations to the Courts and to the governing body of the City of Mobile, particularly the Mobile City Police Department.

The law abiding citizens of this community cannot condone the event which erupted on the night of March 28, 1976. We feel that in these days and times where crime runs rampant a strong, tough approach must be taken to apprehend the criminal element. Equally important law enforcement officers must deal with the criminal in a professional manner.

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We want to make it clear that we feel that the vast majority of our county's law enforcement officers dedicate their lives to professional and conscientious work in protecting our citizen's lives and property. This incident in our opinion represents the deeds of a very small, small group of men who exceeded their lawful authority and acted in a totally irresponsible manner. They not only did not uphold the law but apparently violated the very law that they swore to uphold. This incident should not reflect in any manner on all of law enforcement. As a matter of fact, we again recognize and commend the overwhelming majority of our law enforcement officers. The activities which occurred on the night of March 28, 1976, have stained the very uniform of conscientious law enforcement officers. Our community must not let these acts in any way affect their cooperation and support of law enforcement.

We feel that the general public should realize that the men charged are not supervisors. They are patrolmen out on the beat. We heard evidence from both the victim and a number of the accused police officers. The officer's testimony indicates to us that their illegal actions were not random, spur of the moment acts taken in violation of their supervisor's orders. On the contrary, these men have indicated to us that their supervisors not only accepted but urged these patrolmen to commit these improper, irresponsible acts. We feel these few policemen would not have followed this irresponsible course of action had they not been encouraged and at times compelled to commit the assault by certain very few supervisory officers. Although we the Grand Jury feel that this unfortunate supervisory problem cannot excuse individual illegal misconduct, we feel that these officers would not have engaged in these activities if their supervisory officers had provided the proper advise, guidance and supervision.

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To solve this deplorable situation and to insure that future illegal acts do not occur, we recommend and urge that the City Commission thoroughly investigate the police department, particularly the patrol division. This investigation should be made by officers who are charged with one duty: to seek the truth.

Also, we heard testimony from the accused officers that many supervisory vacancies exist. They must be filled by qualified, dedicated law enforcement personnel. For that reason, we suggest that the City of Mobile request the Mobile County Personnel Board to administer the appropriate examinations and to hire or promote the most qualified individuals to the available jobs. Possibly better supervision could have prevented the actions of these few men on that particular night.

As a Grand Jury we are well aware that our duty is not only to indict the guilty but also to exonerate the innocent. After hearing all the evidence, we believe that three of the suspended patrolmen are surely not guilty. These men were not involved in this unfortunate event. They were victims of circumstance. They not only did not participate in it but they reported the incident to their supervisors. Therefore we recommend that the City Commission end their suspension and reinstate them as patrolmen. Also we believe they should receive back pay to cover the period during which they were suspended.

As the Grand Jury, we are charged with the duty of considering all the evidence. We feel we have put aside all preconceptions we had while considering this evidence. Furthermore we must say that this case constituted the most trying and difficult days of our term as Grand Jurors.

Finally we wish to commend the District Attorney and his staff for taking the swift, immediate, and decisive action to honestly and objectively uncover, develop and present the hard cold facts.

We wish now to be put into recess until recalled by this Court or until another Grand Jury is empanelled.

Russell I. Beason  
FOREMAN

Vernon A. Hordwin

Larry L. Dunn

Willie H. Hester

Thomas A. Hays

Samuel B. Hodgson

Ronald M. Ridgeway

Thomas J. Sigler

James E. Bristow

Virgil E. Brundage

Oscar J. May

W. B. Foye

Frank S. Campbell

John A. Calamitelli

## City searching for ways

By DAVID SPEAR  
Press Register Reporter

In the wake of the worst officer accountability crisis in the history of the Mobile Police Department, city officials Friday began searching for means to rebuild the devastated and disgruntled 300-man force.

A total of 16 officers have been disciplined in the last 60 days and Police Commissioner Robert B. Doyle Jr. and Police Chief Don Riddle conceded Friday that department morale "has never been worse."

"We know the men are upset, unhappy and confused," Doyle said. "This has been a very hard time for all of them and all of us. The original disciplinary action in April (in which one officer was fired and seven suspended) was difficult enough and this (Thursday's firing of two officers and the suspension of six others) have just made a bad situation worse."

"But as tragic and distasteful as it has all been," Doyle continued, "it had to be done and it has been done. Now, we have got to get the department moving again."

The embattled Riddle, who was a close personal friend of several of the men he was forced to censure, echoed Doyle's remarks.

"You don't know how badly I hate all of this," Riddle said, "but what has happened, as bad as it is, is over and now, we've got to address ourselves to the present situation and make every effort to regroup as quickly as possible and begin doing our jobs again."

Earlier Friday, Doyle made public the reasons Thursday's firings of Sgt. Ronald K. Mair and Patrolman Henry J. Booth and suspensions of Lts. Walter Milne and Clarence J. Lund, Sgt. Thomas Lee, and Patrolmen Robert Duff, Leroy Sieck, and John Boone.

Mair was fired for failing to report abusive treatment of a citizen by Boone, for improper supervision, violations of citizens' constitutional rights, neglect of duty, and encouragement of illegal actions by men in his command.

Booth was dismissed for mistreatment of citizens on several occasions from December, 1974, until last January, and for an incident in April in which he reportedly took persons into custody, transported them to an isolated area, and left them.

Milne drew a 30-day suspension for failing to take disciplinary action in connection with abusive treatment of a citizen by Duff and, on another occasion, by an unnamed officer.

Lund was suspended for 30 days for reporting for duty on several occasions "with the odor of alcohol on your breath," for failing to provide proper supervision, and for encouraging illegal actions by men in his command.

Lee, who ironically is the Mobile and Alabama Jaycees' "Outstanding Law Enforcement Officer of the Year" and the Mobile Exchange Club's "1976 Policeman of the Year," was suspended for 30 days for failing to report an incident involving Boone, and for participation in the probable violation of a citizen's constitutional rights immediately following that incident.

Duff drew a 15-day suspension for mistreating a person he had taken into custody last month.

Sieck was also suspended for 15 days for participation in the incident involving Booth.

Finally, Boone drew a 15-day suspension for an incident involving Mair, Lee, and himself.

## to rebuild police force

Specifics of the incidents were not revealed, but all came to light during a departmental investigation of police conduct that was launched two months ago in the wake of an alleged mock lynching on March 28 of a black robbery suspect by eight other officers, all of whom are white.

Shortly after that incident came to light in early April, the just-concluded investigation began and expanded to include other alleged misconduct and the original eight officers were themselves disciplined.

Patrolman Michael Patrick was fired and Patrolmen Vernon Straum, Kenneth Powell, Wilbur Williams, Danny E. Buck, and Everett Alan Brown, and Patrolmen First Class Roy Adams and James R. Coley, were all suspended for 15 days.

Patrick, Straum, Powell, Williams, and Adams were subsequently indicted by a Mobile County grand jury on assault and battery charges in connection with the incident, in which a looped rope was placed around the neck of 27-year-old Glenn Diamond.

All five are awaiting trial and the suspensions of the four indicted with Patrick have been continued indefinitely.

The men were all members of the Patrol Division's "800 Squad," a special robbery-burglary detail of which Mair and Lund were supervisors.

The grand jury was told by some of the officers that Mair and Lund knew of the lynching matter, but failed to do anything about it.

Both men have denied the charge. All of the policemen disciplined Thursday were also Patrol Division members, many with long, virtually

unblemished service records. Four were supervisory personnel.

None of the men were available for comment, but several are expected to appeal the censures to the Mobile County Personnel Board.

A total of 54 officers and 60 private citizens were questioned during the departmental investigation which was directed by Riddle and City Attorney Fred Collins.

Fifteen officers took polygraph (lie detector) tests. Doyle, in looking back over the last two months, said Friday afternoon that he believes a lack of proper training of the men, particularly supervisors, was chiefly responsible for the misconduct.

Consequently, several new training programs have been established, including efforts to teach supervisors to detect undue tension and strain within their men.

Also, an outside agency is expected to be retained for a management and effectiveness study of the entire department.

Finally, an Internal Affairs Division that will, in effect, police the police department is being established.

Doyle said Friday that the investigation and disciplining is an indication the police department will "clean its own house," and he added the community should not abandon the police.

The Mobile Police Department is a good department," he said, "It has a good record and it has some of the most dedicated men and some of the finest men of any police department in the country . . . The great majority of the men do an excellent job and the community can be proud of them."

SUMMARY

The City reports 1369 white employees and 489 black employees, i.e. 26.3% black. If the lowest job classification, Service/Maintenance, is removed the percentage of black employees falls to 10.4%. If the lowest salary classification is removed, less than \$5,900/year, the percentage of black employees falls to 13.8%.

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## PLAINTIFFS' EXHIBIT

CITY 1975	#1 Fin. Admin.	#2 Streets Highways	#4 Police	#5 Fire	#6 Met. Res.&Parks	#9 Housing	#10 Community Development	#12 Utilities &Transp.	#13 Sanit.& Sewage	#15 Misc.	Totals	% Black					
Officials Administrative	13	1	9	6	13	5	1	3	1	6	54	6	10%				
Professionals	9	-	16	1	1	1	2	1	-	10	56	1	1.7%				
Technician	14	6	66	85	3	22	1	-	1	19	220	1	.4%				
Protective Service	-	-	117	38	309	15	4	2	1	-	432	54	11.1%				
Para.Professional	-	-	-	-	40	50	-	-	2	25	3	67	53	44.1%			
Office Clerical	54	1	43	5	4	11	3	6	2	13	1	145	11	7.0%			
Skilled Craft	-	15	2	-	-	-	-	8	1	7	2	78	9	108	14	11.4%	
Service/Maint.	-	20	104	6	2	-	7	64	46	33	54	124	33	21	166	348	67.7%
Totals	90	2	47	106	3708	46	42	66	35	75	126	184	34	1248	487		
	W	B	W	B	W	B	W	B	W	B	W	B	W	B	W	B	

W - White

B - Black

\* Individual statistics do not match EEO-4 totals.

1/ Includes 15 denominated "other" as white.



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SUMMARY ANALYSIS  
CITY OF MOBILE EMPLOYMENT - 1975  
BY RACE, SALARY AND JOB CLASSIFICATION  
SOURCE: STATE AND LOCAL GOVERNMENT  
INFORMATION (EEO-4) SUBMITTED TO THE  
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Annual Salary in Thousand \$	Financial Admin.	Streets & Highways	Police	Fire	Natural Resources & Parks	Housing	Community Develop.	Utilities & Transp.	Sanitation & Sewage	Misc.	Total	% Black											
0-5.9	19	13	90	26	2	2	-	7	9	37	94	51	21	186	299	61.62							
6.0-7.9	21	1	19	15	42	6	2	-	46	25	26	31	48	9	261	125	34.12						
8.0-9.9	14	1	10	1	108	37	309	15	8	1	13	-	3	-	5	1	10.32						
10.0-12.9	15	-	4	-	72	1	102	-	6	-	9	1	3	-	6	-	.82						
13.0-15.9	8	-	-	-	7	-	3	-	5	1	2	-	2	-	-	-	2.72						
16.0-24.9	7	-	1	-	2	-	2	-	2	-	-	-	3	-	21	0	0.02						
Totals	90	2	47	106	370 <sup>a</sup>	46	420/15	80 <sup>b</sup>	122	28	2	9 <sup>c</sup>	1 <sup>d</sup>	66	35	75 <sup>e</sup>	126	184	34	1248	487		
	W	B	W	B	W	B	W	B	W	B	W	B	W	B	W	B	W	B	W	B	W	B	

\* Individual statistics do not match EEO-4 totals.

1/ Includes 15 designated "other" as white.

W - White  
B - Black

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## Plaintiffs Exhibit 75

Group	Total Streets (Miles)	% Unpaved	% Paved Since 1970	% Unpaved	% Paved Since 1970
1	117.78	.85	15.9		
2	350.06	2.6	13.0	2.8	15.6
3	147.61	4.7	21.8		
4	35.56	1.4	23.7	-	-
5	72.31	.9	5.8		
6	55.72	13.8	14.8	6.5	9.7

Group	% of City Voters	Miles of Paved per 1% Voters	Miles unpaved per 1% of Voters	Miles paved since 1970 per 1% of Voters
1	9.3	12.55	.10	1.97
2	42.5	8.01	.22	1.07
3	14.7	9.55	.48	2.18
4	3.	11.68	.17	2.81
5	11.5	6.22	.06	.36
6	9.3	5.16	.82	.88

Group	% of City Voters	Miles paved % of Voters	Miles unpaved % City Voters	Miles paved since 1970 % of City Voters
I, II & III	66.5	8.99	.26	1.44
V & VI	20.8	5.75	.40	.59

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# Memorandum

TO : The File

DATE: 8-31-73

FROM : Robert Murphy, Malaku Steen, Paul Landry and Elliott Clark

SUBJECT: Compliance Trip to Mobile, Alabama

## BACKGROUND

The Office of Revenue Sharing received a complaint from the Mobile, Alabama Branch of the National Association for The Advancement of Colored People, charging the City of Mobile with discrimination in the distribution of Revenue Sharing Funds. The two (2) main areas of concern are related to paving or resurfacing ventures and city operated recreational facilities.

During the period August 15-17, 1973, the Compliance Manager of the Office of Revenue Sharing, along with an Equal Opportunity Specialist, an Auditor, and a representative from the Department of Justice were in Mobile, Alabama investigating the complaint of discrimination. The investigation involved:

- 1) meeting with City Officials (the Mayor, Finance Commissioner, City Planning Director, Senior Engineer for Public Works, etc.);
- 2) meeting with the complainant and other representatives of the Black community (President, Mobile, Alabama Field Director of the NAACP, the Pastor of a Baptist Church, etc.); 3) making site inspections of the alleged discriminatory areas and other

areas in the City of Mobile; and 4) examining records of a financial nature to determine where Revenue Sharing Funds have been expended, obligated and budgeted.

For the period October 1, 1972 to September 30, 1974, the City of Mobile anticipates receiving \$12,226,000 of Revenue Sharing Funds. Of this amount \$7,452,900 is planned for Public Works (paving, drainage, resurfacing various streets, culverts, purchasing specialized vehicles, etc.), and \$1,572,000 is planned for Parks (swimming pools, recreation center, etc.). See Exhibit "A" attached for details. As of July 31, 1973 approximately \$1,950,000 had been expended and approximately \$950,000 had been encumbered for a total of approximately \$2,900,000. See Exhibit "B" attached for details.

## FINDINGS AND CONCLUSIONS

### Recreational Facilities

The meeting with the members of the Black community focused primarily on two recreational areas - Herndon Park, which is in a white area, and Gorgas Community Center, which is in a Black area. In addition, the NAACP, Mobile, Alabama Branch, took issue "with the near million dollar planned expenditure on a golf course".

Pictures of the two parks clearly show that Herndon Park is in better condition than Gorgas Community Center. Furthermore, the swimming pool in the Center is not operative and is in dire need of repairs. The Revenue Sharing Budget for Parks



Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

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(Page No. 13, Budget Number 432) shows that \$119,400 was budgeted for the Gorgas Park pool for Fiscal Year 1972-1973. We were advised by City officials that the pool situation at Gorgas will be rectified before next summer (plans call for a new pool to be built).

Another area mentioned by the NAACP in their complaint to the Mayor of Mobile was the Joe Radford Thomas Center. Renovation of the pool in this Center is included in the Revenue Sharing Budget (#433) in the amount of \$73,200 for Fiscal Year 1972-1973. It is anticipated that the renovation will be completed by next summer also.

Regarding the golf course, we found a proposal to the United States Department of the Interior, Bureau of Outdoor Recreation, requesting 50% Federal assistance, namely, \$265,953 (the balance to come out of the City of Mobile's Capital Fund - not Revenue Sharing), for a 9-hole golf course, driving range, etc., in Miller's park. City officials confirmed that there were no plans to use Revenue Sharing Funds for constructing a golf course.

Regarding recreation, we conclude that the claim of discrimination is not supported by the facts. We should follow up to see that the pools in minority areas are constructed or renovated in time to be used by the beginning of next summer. City officials advised that the delay was partly due to the fact that the City was caught in a bind with the contractors due to the additional amount of work generated by the receipt

of Revenue Sharing Funds.

Paving, Resurfacing and Drainage

Our review did not substantiate the charge of discrimination relating to the assignment of priorities for paving, resurfacing, and drainage of the various city streets of Mobile. In many cases, resurfacing and drainage projects are already in process in certain areas of the Black and White neighborhoods.

We were informed by city officials that the areas selected were in conformance with the overall Mayor Street Plan of 1968, which was accelerated due to receipts of the Revenue Sharing Funds. Areas such as those located in the vicinity of the Mobile General Hospital were cited as having higher priority because of the floods which cut off access to the hospital. The city also maintains that the areas selected for drainage were selected because of the topography which necessitates doing certain areas first.

The complainant provided several photographs to support his allegation of discrimination in the assignment of priorities, but it appears that the complainant was not aware of the city's criteria used for establishing priorities.

Examples of some of these streets cited by the complainant as needing resurfacing were Summerville Street intersecting at Joy Lane, Stanton Street, and the Old Shell Road from Bay Shore Avenue to Martin Street which has open ditches. Two of these were mentioned in the Mobile Newspaper as slated for



resurfacing and are now in process. The Old Shell Road area has not been considered for repairs within the period of the two-year program, but later discussions with Mobile City Officials indicated that this area will be repaired during the 2nd year of the program. A review of the two-year budget for the Revenue Sharing Funds, and the areas outlined on a map provided by the city, disclosed that plans do include areas of the Black communities. However, it is quite evident that these areas to a very large degree (with the exception of Trinity Gardens and the Bay Bridge Area) are being used for commercial and commuter traffic, (such as Davis, Stanton, Donal, and Summerville Street,) rather than for the use of citizens in more generalized residential areas. The yellow areas noted on the map indicates that resurfacing projects have been concentrated on many of the main and side streets of the White neighborhoods. There is clear evidence that the resurfacing projects were not performed on an equable basis among the neighborhoods.

The complainant also provided several photographs of areas which had poor drainage, such as Chisam and Persimmon Street which were caused by the dike built by the city to retain the water from the river. The city has now agreed to cut a hole in the dike, so that the accumulated water can filter into the river.

The total allocation of Revenue Sharing Funds (approximately \$1,176,000) for the installation of drainage systems has been limited to the neighborhoods of; Riverside, Beichlelu, Murtz, Maryvale, Maysville, Rolling Acres, Jackson, Bolton and Airmont. Some of these neighborhoods are shown as areas with drainage problems, but others are indicated as having adequate drainage. All of these neighborhoods are predominantly White. Those areas which were considered with adequate drainage were included in the Revenue Sharing Budget, when those in the Black neighborhood listed as poor drainage were not. Also, we noted that the city's capital budget shows that \$700,000 was allocated for a drainage project along the Dog River area which is also predominantly White. We did note however, that the city of Mobile has allocated approximately \$1,000,000 for the drainage system along the 3 mile Creek area and the Downtown section, which is predominantly Black.

#### General

Pointing out specific areas where streets have poor drainage, where there are open ditches, pot-holes, etc., does not of itself prove discrimination.